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ABSTRACT

Finding that violent crimes perpetrated by juvenile offenders has increased dramatically in this century, the Committee on the Judiciary recommended and forwarded this bill for enaction by the Senate. The bill revises federal court procedures, addresses the problem of violent crime and controlled substance offenses by youth gangs, and encourages states to adopt policies "to ensure that the victims of violent crimes committed by juveniles receive the same level of justice as do victims of...adults." Title I reforms the procedures by which juveniles who commit federal crimes are prosecuted and punished. Title II deals with juvenile gangs. Title III amends and reauthorizes the Juvenile Justice and Delinquency Prevention Act of 1974 to provide block grants to states for effective youth crime control and accountability. Title IV provides seed money for Boys and Girls Clubs in distressed areas. Title V contains definitions and authorizations regarding miscellaneous offenses including carjacking, firearms safety, use of prison labor for data entry, hate crimes and child exploitation. Legislative history; minority, additional, and supplemental views; and cost estimates are included. (EMK)

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ED 419 208

Calendar No. 210

105TH CONGRESS
1st Session

SENATE

REPORT
105–108

VIOLENT AND REPEAT JUVENILE OFFENDER ACT OF 1997

REPORT

OF THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

together with

ADDITIONAL, MINORITY, AND SUPPLEMENTAL VIEWS

TO ACCOMPANY

S. 10

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OCTOBER 9, 1997.—Ordered to be printed

CG028468

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105TH CONGRESS
1st Session
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105–108

VIOLENT AND REPEAT JUVENILE OFFENDER ACT OF 1997

OCTOBER 9, 1997.—Ordered to be printed

Mr. HATCH, from the Committee on the Judiciary,
submitted the following

REPORT

together with

ADDITIONAL, MINORITY, AND SUPPLEMENTAL VIEWS

[To accompany S. 10]

The Committee on the Judiciary, to which was referred the bill (S. 10) to reduce juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes, having considered the same and amendments thereto, reports favorably thereon, with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Violent and Repeat Juvenile Offender Act of 1997".

43-952

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Severability.

TITLE I—JUVENILE JUSTICE REFORM

Sec. 101. Repeal of general provision.
Sec. 102. Treatment of Federal juvenile offenders.
Sec. 103. Definitions.
Sec. 104. Notification after arrest.
Sec. 105. Release and detention prior to disposition.
Sec. 106. Speedy trial.
Sec. 107. Dispositional hearings.
Sec. 108. Use of juvenile records.
Sec. 109. Implementation of a sentence for juvenile offenders.
Sec. 110. Magistrate judge authority regarding juvenile defendants.
Sec. 111. Federal Sentencing Guidelines.
Sec. 112. Study and report on Indian tribal jurisdiction.

TITLE II—JUVENILE GANGS

Sec. 201. Short title.
Sec. 202. Increase in offense level for participation in crime as a gang member.
Sec. 203. Amendment of title 18 with respect to criminal gangs.
Sec. 204. Interstate and foreign travel or transportation in aid of criminal gangs.
Sec. 205. Solicitation or recruitment of persons in criminal gang activity.
Sec. 206. Crimes involving the recruitment of persons to participate in criminal gangs and firearms offens
as RICO predicates.
Sec. 207. Prohibitions relating to firearms.
Sec. 208. Amendment of sentencing guidelines with respect to body armor.
Sec. 209. Prison communications.
Sec. 210. High intensity interstate gang activity areas.
Sec. 211. Increased RICO penalties for gang and violent crimes.
Sec. 212. Increasing the penalty for using physical force to tamper with witnesses, victims, or informants.
Sec. 213. Clone pagers.

TITLE III—JUVENILE CRIME CONTROL AND ACCOUNTABILITY

Sec. 301. Findings; declaration of purpose; definitions.
Sec. 302. National program.
Sec. 303. Juvenile crime control and juvenile offender accountability incentive block grants.
Sec. 304. State plans.
Sec. 305. Grants to prosecutors.
Sec. 306. Runaway and homeless youth.
Sec. 307. Authorization of appropriations.
Sec. 308. Transfer of functions and savings provisions.
Sec. 309. Pilot program to promote replication of recent successful juvenile crime reduction strategies.
Sec. 310. Repeal of unnecessary and duplicative programs.
Sec. 311. Extension of Violent Crime Reduction Trust Fund.
Sec. 312. Reimbursement of States for costs of incarcerating juvenile aliens.

TITLE IV—BOYS AND GIRLS CLUBS

Sec. 401. 2,500 Boys and Girls Clubs before 2000.

TITLE V—MISCELLANEOUS

Subtitle A—General Provisions

Sec. 501. Definition of unit of local government.
Sec. 502. Carjacking offenses.
Sec. 503. Firearms safety.
Sec. 504. Firearm safety education grants.
Sec. 505. Increased penalty for firearms conspiracy.
Sec. 506. Felony treatment for offenses tantamount to aiding and abetting unlawful purchases.
Sec. 507. Increased penalty for knowingly receiving firearms with obliterated serial number.
Sec. 508. Amendment of the sentencing guidelines for transfers of firearms to prohibited persons.
Sec. 509. Criminal forfeiture of firearms used in crimes of violence and felonies.
Sec. 510. Criminal forfeiture for gun trafficking.
Sec. 511. Using prison inmate labor and other labor for data processing of personal information about childr
Sec. 512. Truth-in-sentencing incentive grants.
Sec. 513. False advertising or misuse of name to indicate United States Marshals Service.
Sec. 514. Extension of authority.
Sec. 515. Use of residential substance abuse treatment grants to provide aftercare services.
Sec. 516. Establishment of felony violations.
Sec. 517. Hate Crimes Statistics Act.
Sec. 518. Elimination of the statute of limitations for murder and Class A offenses.
Sec. 519. Priority.
Sec. 520. Increased penalties for distributing drugs to minors.
Sec. 521. Increased penalty for drug trafficking in or near a school or other protected location.
Sec. 522. Increased penalties for using minors to distribute drugs.
Sec. 523. Penalties for use of minors in crimes of violence.
Sec. 524. Increased penalties for using Federal property to grow or manufacture controlled substances.
Sec. 525. Safe schools.
Sec. 526. Applicability to dangerous weapons.

Subtitle B—Child Exploitation Sentencing Enhancement

Sec. 531. Short title.
Sec. 532. Definitions.

Sec. 533. Increased penalties for use of a computer in the sexual abuse or exploitation of a child.
Sec. 534. Increased penalties for knowing misrepresentation in the sexual abuse or exploitation of a child.
Sec. 535. Increased penalties for pattern of activity of sexual exploitation of children.
Sec. 536. Repeat offenders; increased maximum penalties for transportation for illegal sexual activity and related crimes.
Sec. 537. Clarification of definition of distribution of pornography.
Sec. 538. Directive to the United States Sentencing Commission.
Sec. 539. Authorization for guardians ad litem.
Sec. 540. Applicability.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) at the outset of the 20th century, the States adopted a separate justice system for juvenile offenders;

(2) violent crimes committed by juveniles, such as homicide, rape, and robbery, were an unknown phenomenon then, but the rate at which juveniles commit such crimes has escalated astronomically since that time;

(3) in 1994—

(A) the number of persons arrested overall for murder in the United States decreased by 5.8 percent, but the number of persons who are less than 15 years of age arrested for murder increased by 4 percent; and

(B) the number of persons arrested for all violent crimes increased by 1.3 percent, but the number of persons who are less than 15 years of age arrested for violent crimes increased by 9.2 percent, and the number of persons less than 18 years of age arrested for such crimes increased by 6.5 percent;

(4) from 1985 to 1996, the number of persons arrested for all violent crimes increased by 52.3 percent, but the number of persons under age 18 arrested for violent crimes rose by 75 percent;

(5) the number of juvenile offenders is expected to undergo a massive increase during the first 2 decades of the twenty-first century, culminating in an unprecedented number of violent offenders who are less than 18 years of age;

(6) the rehabilitative model of sentencing for juveniles, which Congress rejected for adult offenders when Congress enacted the Sentencing Reform Act of 1984, is inadequate and inappropriate for dealing with violent and repeat juvenile offenders;

(7) the Federal Government should encourage the States to experiment with progressive solutions to the escalating problem of juveniles who commit violent crimes and who are repeat offenders, including prosecuting all such offenders as adults, but should not impose specific strategies or programs on the States;

(8) an effective strategy for reducing violent juvenile crime requires greater collection of investigative data and other information, such as fingerprints and DNA evidence, as well as greater sharing of such information among Federal, State, and local agencies, including the courts, in the law enforcement and educational systems;

(9) data regarding violent juvenile offenders must be made available to the adult criminal justice system if recidivism by criminals is to be addressed adequately;

(10) holding juvenile proceedings in secret denies victims of crime the opportunity to attend and be heard at such proceedings, helps juvenile offenders to avoid accountability for their actions, and shields juvenile proceedings from public scrutiny and accountability;

(11) the injuries and losses suffered by the victims of violent crime are no less painful or devastating because the offender is a juvenile; and

(12) the investigation, prosecution, adjudication, and punishment of criminal offenses committed by juveniles is, and should remain, primarily the responsibility of the States, to be carried out without interference from the Federal Government.

(b) PURPOSES.—The purposes of this Act are—

(1) to reform juvenile law so that the paramount concerns of the juvenile justice system are providing for the safety of the public and holding juvenile wrongdoers accountable for their actions, while providing the wrongdoer a genuine opportunity for self-reform;

(2) to revise the procedures in Federal court that are applicable to the prosecution of juvenile offenders;

(3) to address specifically the problem of violent crime and controlled substance offenses committed by youth gangs; and

(4) to encourage and promote, consistent with the ideals of federalism, adoption of policies by the States to ensure that the victims of violent crimes com-

mitted by juveniles receive the same level of justice as do victims of violent crimes that are committed by adults.

SEC. 3. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE I—JUVENILE JUSTICE REFORM

SEC. 101. REPEAL OF GENERAL PROVISION.

(a) In General.—Chapter 401 of title 18, United States Code, is amended—
  (1) by striking section 5001; and
  (2) by redesignating section 5003 as section 5001.

(b) Conforming Amendments.—The analysis for chapter 401 of title 18, United States Code, is amended—
  (1) by striking the item relating to section 5001; and
  (2) by redesignating the item relating to section 5003 as 5001.

SEC. 102. TREATMENT OF FEDERAL JUVENILE OFFENDERS.

(a) In General.—Section 5032 of title 18, United States Code, is amended to read as follows:

"§ 5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution

"(a) In General.—A juvenile who is alleged to have committed a Federal offense shall, except as provided in subsection (d), be tried in the appropriate district court of the United States—

  "(1) in the case of an offense described in subsection (c), if the juvenile was not less than 14 years of age at the time of the offense, as an adult at the discretion of the United States Attorney in the appropriate jurisdiction, upon certification by that United States Attorney (which certification shall not be subject to review in or by any court) that—
    "(A) there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction; or
    "(B) the ends of justice otherwise so require;
  "(2) in the case of a felony offense that is not described in subsection (c) as an adult, upon certification by the Attorney General (which certification shall not be subject to review in or by any court) that—
    "(A) there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction; or
    "(B) the ends of justice otherwise so require; and
  "(3) in all other cases, as a juvenile.

"(b) Joinder; Lesser Included Offenses.—In a prosecution under this section, a juvenile may be prosecuted and convicted as an adult for any offense that is properly joined under the Federal Rules of Criminal Procedure with an offense under subsection (c), and may also be convicted of a lesser included offense.

"(c) Offenses Described.—For purposes of subsection (a)(1), an offense is described in this subsection if it is a Federal offense that—
  "(1) is a serious violent felony or a serious drug offense described in section 3559(c), except that the provisions of paragraph (c)(3) of section 3559 shall not apply to this section; or
  "(2) is a conspiracy or an attempt to commit an offense described in paragraph (1).

"(d) Referral by United States Attorney.—
  "(1) In general.—If the United States Attorney in the appropriate jurisdiction declines prosecution of an offense under this section, the United States Attorney may refer the matter to the appropriate legal authorities of the State or Indian tribe with jurisdiction over both the offense and the juvenile.
  "(2) Definitions.—In this subsection:
    "(A) Indian tribe.—The term 'Indian tribe' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).
    "(B) State.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(e) APPLICABLE PROCEDURES.—Any action prosecuted in a district court of the United States under this section—

"(1) shall proceed in the same manner as is required by this title and by the Federal Rules of Criminal Procedure in proceedings against an adult in the case of a juvenile who is being tried as an adult in accordance with subsection (a); and

"(2) in all other cases, shall proceed in accordance with this chapter, unless the juvenile has requested in writing, upon advice of counsel, to be proceeded against as an adult.

"(f) APPLICATION OF LAWS.—

"(1) IN GENERAL.—Except as otherwise provided in this chapter, in any case in which a juvenile is prosecuted in a district court of the United States as an adult, the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing (including the availability of probation, restitution, fines, forfeiture, imprisonment, and supervised release) that would be applicable in the case of an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years. Juveniles tried as adults shall be sentenced under Federal sentencing guidelines consistent with section 994(z) of title 28, United States Code, once such guidelines are promulgated and go into effect.

"(2) APPLICABILITY OF MANDATORY RESTITUTION PROVISIONS TO CERTAIN JUVENILES.—If a juvenile is tried as an adult for any offense to which the mandatory restitution provisions of sections 3663A, 2248, 2259, 2264, and 2323 apply, those sections shall apply to that juvenile in the same manner and to the same extent as those provisions apply to adults.

"(g) OPEN PROCEEDINGS.—

"(1) IN GENERAL.—Any offense tried in a district court of the United States under this section shall be open to the general public, in accordance with rules 10, 26, 31(a), and 53 of the Federal Rules of Criminal Procedure, unless good cause is established by the moving party or is otherwise found by the court, for closure.

"(2) STATUS ALONE INSUFFICIENT.—The status of the defendant as a juvenile, absent other factors, shall not constitute good cause for purposes of this subsection.

"(h) AVAILABILITY OF RECORDS.—

"(1) IN GENERAL.—In making a determination concerning the arrest or prosecution of a juvenile in a district court of the United States under this section, subject to the requirements of section 5038, the United States Attorney of the appropriate jurisdiction shall have complete access to the prior Federal juvenile records of the subject juvenile and, to the extent permitted by State law, the prior State juvenile records of the subject juvenile.

"(2) CONSIDERATION OF ENTIRE RECORD.—In any case in which a juvenile is found guilty in an action under this section, the district court responsible for imposing sentence shall have complete access to the prior Federal juvenile records of the subject juvenile and, to the extent permitted under State law, the prior State juvenile records of the subject juvenile. At sentencing, the district court shall consider the entire available prior juvenile record of the subject juvenile.

"(3) RELEASE OF RECORDS.—The Director of the Federal Bureau of Investigation may release such Federal records and, to the extent permitted by State law, such State records, to law enforcement authorities of any jurisdiction and to officials of any school, school district, or postsecondary school at which the individual who is the subject of the juvenile record is enrolled or seeks, intends, or is instructed to enroll, if such school officials are held liable to the same standards and penalties to which law enforcement and juvenile justice system employees are held liable under Federal and State law for the handling and disclosure of such information.".

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for chapter 403 of title 18, United States Code, is amended by striking the item relating to section 5032 and inserting the following:

"5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution.".

(2) ADULT SENTENCING SECTION.—Section 3553 of title 18, United States Code, is amended by adding at the end the following:

"(g) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN PROSECUTIONS OF PERSONS UNDER THE AGE OF 16.—Notwithstanding any other provision of law, in the case of a defendant convicted for conduct that occurred before the juvenile attained the age of 16 years, the court shall impose a sentence without regard to any statutory minimum sentence if the court finds at sentencing, after affording the Government an opportunity to make a recommendation, that the juvenile has not been previously adjudicated delinquent for, or convicted of, a serious violent felony or a serious drug offense (as those terms are defined in section 3559(c)).

"(h) Treatment of Juvenile Criminal History in Federal Sentencing.—

"(1) In general.—

"(A) Sentencing guidelines.—Pursuant to its authority under section 994 of title 28 and the amendments made by section 111 of the Violent and Repeat Juvenile Offender Act of 1997, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide that, in determining the criminal history score under the guidelines for any adult offender or any juvenile offender being sentenced as an adult, prior juvenile convictions and adjudications for offenses described in paragraph (2) shall receive a score similar to that which the defendant would have received if those offenses had been committed when the defendant was an adult, provided that any portion of the sentence for the offense was imposed or served within 15 years after the commencement of the instant offense.

"(B) Reviews.—The Commission shall also review the criminal history treatment of juvenile adjudications or convictions for other offenses to determine whether it should be adjusted in a similar fashion, and make any additional guideline amendments necessary to make whatever adjustments it concludes are needed to implement the results of the review.

"(2) Offenses described.—The offenses described in paragraph (1) shall include—

"(A) any crime of violence;

"(B) any controlled substance offense;

"(C) any other offense for which the defendant received a sentence or disposition of imprisonment of 1 year or more; and

"(D) any other offense punishable by a term of imprisonment of more than 1 year for which the defendant was prosecuted as an adult.

"(3) Definitions.—The guidelines described in paragraph (1) shall define the terms 'crime of violence' and 'controlled substance offense' in substantially the same manner as those terms are defined in Guideline Section 4B1.2 of the November 1, 1995, Guidelines Manual.

"(4) Juvenile adjudications.—In carrying out this subsection, the Commission shall assign criminal history points for juvenile adjudications based principally on the nature of the acts committed by the juvenile but may also provide for some adjustment of the score in light of the length of sentence the juvenile received.

"(5) Emergency authority.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable, and in any event not later than 90 days after the date of enactment of the Violent and Repeat Juvenile Offender Act of 1997, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that authority had not expired, except that the Commission shall submit to Congress the emergency guidelines or amendments promulgated under this section, and shall set an effective date for those guidelines or amendments not earlier than 30 days after their submission to Congress.

"(6) Career offender determination.—Pursuant to its authority under section 994 of title 28 and the amendments made by section 111 of the Violent and Repeat Juvenile Offender Act of 1997, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide for inclusion, in any determination whether a juvenile or adult defendant is a career offender under section 994(h) of title 28 and any computation of what sentence any defendant found to be a career offender should be given, of any act for which the defendant was previously convicted or adjudicated delinquent as a juvenile that would be a felony covered by that section if it had been committed as an adult.".

SEC. 103. DEFINITIONS.

Section 5031 of title 18, United States Code, is amended to read as follows:

"§ 5031. Definitions

"In this chapter:

"(1) Adult inmate.—The term 'adult inmate' means an individual 18 years of age or older arrested and in custody for, awaiting trial on, or convicted of criminal charges or an act of juvenile delinquency committed while a juvenile.

"(2) Juvenile.—The term 'juvenile' means—

"(A) a person who has not attained his or her eighteenth birthday; or

"(B) for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his or her twenty-first birthday.

"(3) Juvenile delinquency.—The term 'juvenile delinquency' means the violation of a law of the United States committed by a person prior to the eighteenth birthday of that person, if the violation—

"(A) would have been a crime if committed by an adult; or

"(B) is a violation of section 922(x).

"(4) Prohibited physical contact.—

"(A) In general.—The term 'prohibited physical contact' means—

"(i) any physical contact between a juvenile and an adult inmate; and

"(ii) proximity that provides an opportunity for physical contact between a juvenile and an adult inmate.

"(B) Exclusion.—The term does not include supervised proximity between a juvenile and an adult inmate that is brief and incidental or accidental.

"(5) Sustained oral communication.—

"(A) In general.—The term 'sustained oral communication' means the imparting or interchange of speech by or between an adult inmate and a juvenile.

"(B) Exception.—The term does not include—

"(i) communication that is accidental or incidental; or

"(ii) sounds or noises that cannot reasonably be considered to be speech.

"(6) State.—The term 'State' includes a State of the United States, the District of Columbia, any commonwealth, territory, or possession of the United States and, with regard to an act of juvenile delinquency that would have been a misdemeanor if committed by an adult, an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 4506(e))).

"(7) Violent juvenile.—The term 'violent juvenile' means any juvenile who is alleged to have committed, has been adjudicated delinquent for, or has been convicted of an offense that, if committed by an adult, would be a crime of violence (as that term is defined in section 16).".

SEC. 104. NOTIFICATION AFTER ARREST.

Section 5033 of title 18, United States Code, is amended—

(1) in the first sentence, by striking "immediately notify the Attorney General and" and inserting the following: "immediately or as soon as practicable thereafter, notify the United States Attorney of the appropriate jurisdiction and shall promptly take reasonable steps to notify"; and

(2) in the second sentence of the second undesignated paragraph, by inserting before the period at the end the following: ", and the juvenile shall not be subject to detention under conditions that permit prohibited physical contact with adult inmates or in which the juvenile and an adult inmate can engage in sustained oral communications".

SEC. 105. RELEASE AND DETENTION PRIOR TO DISPOSITION.

(a) Duties of Magistrate.—Section 5034 of title 18, United States Code, is amended—

(1) by striking "The magistrate shall insure" and inserting the following:

"(a) In General.—

"(1) Representation by counsel.—The magistrate shall ensure";

(2) by striking "The magistrate may appoint" and inserting the following:

"(2) Guardian ad litem.—The magistrate may appoint";

(3) by striking "If the juvenile" and inserting the following:

"(b) Release Prior to Disposition.—Except as provided in subsection (c), if the juvenile"; and

(4) by adding at the end the following:

"(c) Release of Certain Juveniles.—Notwithstanding subsection (b), a juvenile who is to be tried as an adult under section 5032 shall be released pending trial only in accordance with the applicable provisions of chapter 207. The release shall be conducted in the same manner and be subject to the same terms, conditions, and sanctions for violation of a release condition as provided for an adult under chapter 207.

"(d) Penalty for an Offense Committed While on Release.—

"(1) IN GENERAL.—A juvenile alleged to have committed, while on release under this section, an offense that, if committed by an adult, would be a Federal criminal offense, shall be subject to prosecution under section 5032.

"(2) APPLICABILITY OF CERTAIN PENALTIES.—Section 3147 shall apply to a juvenile who is to be tried as an adult under section 5032 for an offense committed while on release under this section.".

(b) DETENTION PRIOR TO DISPOSITION.—Section 5035 of title 18, United States Code, is amended—

(1) by striking "A juvenile" and inserting the following:

"(a) IN GENERAL.—A juvenile";

(2) in subsection (a), as redesignated—

(A) in the third sentence by striking "regular contact" and inserting "prohibited physical contact or sustained oral communication"; and

(B) after the fourth sentence, by inserting the following: "To the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles."; and

(3) by adding at the end the following:

"(b) DETENTION OF CERTAIN JUVENILES.—

"(1) IN GENERAL.—Notwithstanding subsection (a), a juvenile who is to be tried as an adult under section 5032 shall be subject to detention in accordance with chapter 207 in the same manner, to the same extent, and subject to the same terms and conditions as an adult would be subject to under that chapter.

"(2) EXCEPTION.—A juvenile shall not be detained or confined in any institution in which the juvenile has prohibited physical contact with adult inmates, or can engage in sustained oral communication. To the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles.".

SEC. 106. SPEEDY TRIAL.

Section 5036 of title 18, United States Code, is amended—

(1) by striking "thirty" and inserting "70"; and

(2) by striking "the court," and all that follows through the end of the section and inserting the following: "the court. The periods of exclusion under section 3161(h) shall apply to this section. In determining whether an information should be dismissed with or without prejudice, the court shall consider the seriousness of the alleged act of juvenile delinquency, the facts and circumstances of the case that led to the dismissal, and the impact of a reprosecution on the administration of justice.".

SEC. 107. DISPOSITIONAL HEARINGS.

Section 5037 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) DISPOSITIONAL HEARING.—In a proceeding under section 5032(a)(3), if the court finds a juvenile to be a juvenile delinquent, the court shall hold a hearing concerning the appropriate disposition of the juvenile not later than 40 court days after the finding of juvenile delinquency, unless the court has ordered further study pursuant to subsection (e). A predisposition report shall be prepared by the probation officer who shall promptly provide a copy to the juvenile, the juvenile's counsel, and the attorney for the Government. Victim impact information shall be included in the report, and victims or, in appropriate cases, their official representatives shall be provided the opportunity to make a statement to the court in person or present any information in relation to the disposition.

"(2) ACTIONS OF COURT AFTER HEARING.—After the dispositional hearing, after considering any pertinent policy statements promulgated by the United States Sentencing Commission pursuant to section 994 of title 28, and in conformance with the guidelines promulgated by the United States Sentencing Commission pursuant to section 994(z)(1)(B) of title 28, the court—

"(A) shall place the juvenile on probation or commit the juvenile to official detention (including the possibility of a term of supervised release), and impose any fine that would be authorized if the juvenile had been tried and convicted as an adult; and

"(B) may enter an order of restitution pursuant to section 3663.";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "or supervised release" after "probation";

(B) by striking "extend—" and all that follows through "The provisions" and inserting the following: "extend, in the case of a juvenile, beyond the maximum term of probation that would be authorized by section 3561, or beyond the maximum term of supervised release authorized by section

3583, if the juvenile had been tried and convicted as an adult. The provisions dealing with supervised release set forth in section 3583 and the provisions"; and

(C) in the last sentence, by inserting "or supervised release" after "on probation"; and

(3) in subsection (c), by striking "may not extend—" and all that follows through "Section 3624" and inserting the following: "may not extend beyond the earlier of the 26th birthday of the juvenile or the termination date of the maximum term of imprisonment, exclusive of any term of supervised release, that would be authorized if the juvenile had been tried and convicted as an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years. Section 3624".

SEC. 108. USE OF JUVENILE RECORDS.

Section 5038 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting "or analysis requested by the Attorney General" before the semicolon;

(B) in paragraph (5), by striking "and" at the end;

(C) by striking paragraph (6) and inserting the following:

"(6) communications with any victim of such juvenile delinquency or, in appropriate cases, with the official representative of the victim in order to apprise such victim or representative of the status or disposition of the proceeding or in order to effectuate any other provision of law or to assist in a victim's, or the victim's official representative's, allocution at disposition; and

"(7) inquiries from any school or other educational institution for the purpose of ensuring the public safety and security at such institution."; and

(D) by striking "Unless" and inserting the following:

"(c) PROHIBITION ON RELEASE OF CERTAIN INFORMATION.—Unless";

(2) by striking subsections (e) and (f);

(3) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(4) by inserting after subsection (a) the following:

"(b) ACCESS BY UNITED STATES ATTORNEY.—Notwithstanding subsection (a), in determining the appropriate disposition of a juvenile matter under section 5032, the United States Attorney of the appropriate jurisdiction shall have complete access to the official records of the juvenile proceedings conducted under this title.";

(5) in subsection (e), as redesignated, by inserting after "proceeding" the following: ", other than necessary docketing information";

(6) by inserting after subsection (e), as redesignated, the following:

"(f) RECORDS OF JUVENILES TRIED AS ADULTS.—In any case in which a juvenile is tried as an adult, access to the record of the offenses of the juvenile shall be made available in the same manner as is applicable to adult defendants."; and

(7) by striking "(d) Whenever" and all that follows through "adult defendants." and inserting the following:

"(g) FINGERPRINTS AND PHOTOGRAPHS.—

"(1) IN GENERAL.—In any case in which a juvenile is proceeded against in a district court of the United States under section 5032, that juvenile shall be fingerprinted and photographed.

"(2) AVAILABILITY OF FINGERPRINTS AND PHOTOGRAPHS.—Fingerprints and photographs of a juvenile—

"(A) who is prosecuted as an adult, shall be made available in the same manner as is applicable to an adult defendant; and

"(B) who is not prosecuted as an adult, shall be made available only as provided in subsection (a).

"(3) INFORMATION TO FEDERAL BUREAU OF INVESTIGATION.—

"(A) IN GENERAL.—The court shall transmit to the Federal Bureau of Information the information described in subparagraph (B), in any case in which a juvenile proceeded against in a district court of the United States under section 5032 is found guilty—

"(i) in the case of a juvenile not prosecuted as an adult, of any offense that is a crime of violence or an act that would be a felony if committed by an adult; or

"(ii) in the case of a juvenile prosecuted as an adult, of any offense.

"(B) INFORMATION.—The information described in this subparagraph is— juvenile criminal accountability and enhancing public safety far outweigh the merits of nondisclosure or nondissemination of juvenile criminal records.

"(i) the information concerning an adjudication referred to in subparagraph (A), including the name of the juvenile involved, the date of the adjudication, the court, the offense involved, and the sentence; and

"(ii) as appropriate, a notation as to whether the matters covered in the information under clause (i) involved a juvenile tried as an adult or were juvenile adjudications.".

SEC. 109. IMPLEMENTATION OF A SENTENCE FOR JUVENILE OFFENDERS.

(a) In General.—Section 5039 of title 18, United States Code, is amended to read as follows:

"§ 5039. Implementation of a sentence

"(a) In General.—Except as otherwise provided in this chapter, the sentence for a juvenile who is adjudicated delinquent or found guilty of an offense under any proceeding in a district court of the United States under section 5032 shall be carried out in the same manner as for an adult defendant.

"(b) Sentences of Imprisonment, Probation, and Supervised Release.—Subject to subsection (d), the implementation of a sentence of imprisonment is governed by subchapter C of chapter 229 and, if the sentence includes a term of probation or supervised release, by subchapter A of chapter 229.

"(c) Sentences of Fines and Orders of Restitution; Special Assessments.—

"(1) In general.—A sentence of a fine, an order of restitution, or a special assessment under section 3013 shall be implemented and collected in the same manner as for an adult defendant.

"(2) Prohibition.—The parent, guardian, or custodian of a juvenile sentenced to pay a fine or ordered to pay restitution or a special assessment under section 3013 may not be made liable for such payment by any court.

"(d) Segregation of Juveniles; Conditions of Confinement.—

"(1) In general.—No juvenile committed for incarceration, whether pursuant to an adjudication of delinquency or conviction for an offense, to the custody of the Attorney General may, before the juvenile attains the age of 18, be placed or retained in any jail or correctional institution in which the juvenile has prohibited physical contact with adult inmate or can engage in sustained oral communication with adult inmates. To the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles.

"(2) Requirements.—Each juvenile who is committed for incarceration shall be provided with—

"(A) adequate food, heat, light, sanitary facilities, bedding, clothing, and recreation; and

"(B) as appropriate, counseling, education, training, and medical care (including necessary psychiatric, psychological, or other care or treatment).

"(3) Commitment to foster home or community-based facility.—Except in the case of a juvenile who is found guilty of a violent felony or who is adjudicated delinquent for an offense that would be a violent felony if the juvenile had been prosecuted as an adult, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community if that commitment is—

"(A) practicable;

"(B) in the best interest of the juvenile; and

"(C) consistent with the safety of the community.".

(b) Conforming Amendment.—The analysis for chapter 403 of title 18, United States Code, is amended by striking the item relating to section 5039 and inserting the following:

"5039. Implementation of a sentence.".

SEC. 110. MAGISTRATE JUDGE AUTHORITY REGARDING JUVENILE DEFENDANTS.

Section 3401(g) of title 18, United States Code, is amended—

(1) in the second sentence, by inserting after "magistrate judge may, in any" the following: "class A misdemeanor or any"; and

(2) in the third sentence, by striking ", except that no" and all that follows before the period at the end of the subsection.

SEC. 111. FEDERAL SENTENCING GUIDELINES.

(a) Application of Guidelines to Certain Juvenile Defendants.—Section 994(h) of title 28, United States Code, is amended by inserting ", or in which the defendant is a juvenile who is tried as an adult," after "old or older".

(b) Guidelines for Juvenile Cases.—

(1) In general.—Section 994 of title 28, United States Code, is amended by adding at the end the following:

"(z)(1) The Commission, not later than 1 year after the date of enactment of the Violent and Repeat Juvenile Offender Act of 1997, by affirmative vote of not less than 4 members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of any Federal statute, shall promulgate and distribute to all courts of the United States and to the United States Probation System—

"(A) guidelines, as described in this section, for use by a sentencing court in determining the sentence to be imposed in a criminal case if the defendant committed the offense as a juvenile, and is tried as an adult pursuant to section 5032 of title 18, United States Code; and

"(B) guidelines, as described in this section, for use by a court in determining the sentence to be imposed on a juvenile adjudicated delinquent pursuant to section 5032 of title 18, United States Code, and sentenced pursuant to a dispositional hearing under section 5037 of title 18, United States Code.

"(2) In carrying out this subsection, the Commission shall make the determinations required by subsection (a)(1) and promulgate the policy statements and guidelines required by paragraphs (2) and (3) of subsection (a).

"(3) In addition to any other considerations required by this section, the Commission, in promulgating guidelines—

"(A) pursuant to paragraph (1)(A), shall presume the appropriateness of adult sentencing provisions, but may make such adjustments to sentence lengths and to provisions governing downward departures from the guidelines as reflect the specific interests and circumstances of juvenile defendants; and

"(B) pursuant to paragraph (1)(B), shall ensure that the guidelines—

"(i) reflect the broad range of sentencing options available to the court under section 5037 of title 18, United States Code; and

"(ii) effectuate a policy of an accountability-based juvenile justice system that provides substantial and appropriate sanctions, which are graduated to reflect the severity or repeated nature of violations, for each delinquent act, and reflect the specific interests and circumstances of juvenile defendants.

"(4) The review period specified by subsection (p) shall apply to guidelines promulgated pursuant to this subsection and any future amendments thereto.".

(2) TECHNICAL CORRECTION TO ASSURE COMPLIANCE OF SENTENCING GUIDELINES WITH PROVISIONS OF ALL FEDERAL STATUTES.—Section 994(a) of title 28, United States Code, is amended by striking "consistent with all pertinent provisions of this title and title 18, United States Code," and inserting "consistent with all pertinent provisions of any Federal statute".

SEC. 112. STUDY AND REPORT ON INDIAN TRIBAL JURISDICTION.

Not later than 18 months after the date of enactment of this Act, the Attorney General shall conduct a study of the juvenile justice systems of Indian tribes (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) and shall report to the Chairman and Ranking Member of the Committee on the Judiciary and the Committee on Indian Affairs of the Senate and the Chairman and Ranking Member of the Committee on the Judiciary of the House of Representatives on—

(1) the extent to which tribal governments are equipped to adjudicate felonies, misdemeanors, and acts of delinquency committed by juveniles subject to tribal jurisdiction; and

(2) the need for and benefits from expanding the jurisdiction of tribal courts and the authority to impose the same sentences that can be imposed by Federal or State courts on such juveniles.

TITLE II—JUVENILE GANGS

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Gang Violence Act".

SEC. 202. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS A GANG MEMBER.

(a) DEFINITION OF CRIMINAL GANG.—In this section, the term "criminal gang" has the meaning given that term in section 521(a) of title 18, United States Code, as amended by section 203 of this title.

(b) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide an appropriate enhancement for any Federal offense that is a predicate gang crime (as the term is defined in section 521 of title 18, United States Code), if the offense was both committed in con-

nection with, or in furtherance of, the activities of a criminal gang and the defendant was a member of the criminal gang at the time of the offense.

(2) Factors to be considered.—In determining an appropriate enhancement under this section, the United States Sentencing Commission shall give great weight to the seriousness of the offense, the offender's relative position in the criminal gang, and the risk of death or serious bodily injury to any person posed by the offense.

(c) Construction With Other Guidelines.—The amendment made by subsection (b) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal Sentencing Guidelines.

SEC. 203. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL GANGS.

(a) In General.—Section 521 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) Definitions.—" and inserting the following:

"(a) Definitions.—In this section:"; and

(B) by striking "'conviction" and all that follows through the end of the subsection and inserting the following:

"(1) Criminal gang.—The term 'criminal gang' means an ongoing group, club, organization, or association of 5 or more persons, whether formal or informal—

"(A) that has as 1 of its primary activities or purposes of the commission of 1 or more predicate gang crimes; and

"(B) the activities of which affect interstate or foreign commerce.

"(2) Pattern of criminal gang activity.—The term 'pattern of criminal gang activity' means the commission of 2 or more predicate gang crimes committed in connection with, or in furtherance of, the activities of a criminal gang—

"(A) not less than 1 of which was committed after the date of enactment of the Federal Gang Violence Act;

"(B) the first of which was committed not more than 5 years before the commission of another predicate gang crime; and

"(C) that were committed on separate occasions.

"(3) Predicate gang crime.—The term 'predicate gang crime' means an offense, including an act of juvenile delinquency that, if committed by an adult, would be an offense that is—

"(A) a Federal offense—

"(i) that is a crime of violence (as that term is defined in section 16) for which the maximum penalty is imprisonment for not less than 10 years;

"(ii) that involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is imprisonment for not less than 10 years;

"(iii) that is a violation of section 522 (relating to the recruitment of persons to participate in criminal gang activity);

"(iv) that is a violation of section 844, 875, or 876 (relating to extortion and threats), section 1084 (relating to gambling), section 1955 (relating to gambling), or chapter 73 (relating to obstruction of justice);

"(v) that is a violation of—

"(I) subsection (a)(1), (i), (j), (k), (*o*), (q), (u), (v), or (x)(1) of section 922; or

"(II) subsection (b), (g), (h), (k), (*l*), or (m) of section 924;

"(vi) that is a violation of section 1956 (relating to money laundering), to the extent that the violation of such section is related to a Federal or State offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(vii) that is a violation of section 274(a)(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328) (relating to alien smuggling);

"(B) a State offense involving conduct that would constitute an offense under subparagraph (A) if Federal jurisdiction existed or had been exercised; or

"(C) a conspiracy, attempt, or solicitation to commit an offense described in subparagraph (A) or (B).

"(4) State.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

"(b) Criminal Penalties.—Whoever engages in a pattern of criminal gang activity—

"(1) shall be sentenced to—

"(A) a term of imprisonment of not less than 5 years and not more than 25 years, fined in accordance with this title, or both; and

"(B) the forfeiture prescribed in section 413 of the Controlled Substances Act (21 U.S.C. 853); and

"(2) if any person engages in such activity after 1 or more prior convictions under this section have become final, shall be sentenced to—

"(A) a term of imprisonment of not less than 20 years and not more than life, fined in accordance with this title, or both; and

"(B) the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853).

"(c) Certification.—A person may not be prosecuted for an offense under this section unless the Attorney General, the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division personally certifies (which certification shall not be subject to review in or by any court) that, in the judgment of that official, the prosecution of that person—

"(1) is in the public interest; and

"(2) is necessary to secure substantial justice.".

(b) Conforming Amendment.—Section 3663(c)(4) of title 18, United States Code, is amended by inserting before "chapter 46" the following: "section 521 of this title,".

SEC. 204. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF CRIMINAL GANGS.

(a) Travel Act Amendments.—

(1) Prohibited conduct and penalties.—Section 1952(a) of title 18, United States Code, is amended to read as follows:

"(a) Prohibited Conduct and Penalties.—

"(1) In general.—Whoever—

"(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

"(i) distribute the proceeds of any unlawful activity; or

"(ii) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; and

"(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), performs, attempts to perform, or conspires to perform an act described in clause (i) or (ii) of subparagraph (A);

shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) Crimes of violence.—Whoever—

"(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity; and

"(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), commits, attempts to commit, or conspires to commit any crime of violence to further any unlawful activity,

shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.".

(2) Definitions.—Section 1952(b) of title 18, United States Code, is amended to read as follows:

"(b) Definitions.—In this section:

"(1) Controlled substance.—The term 'controlled substance' has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(2) State.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(3) Unlawful activity.—The term 'unlawful activity' means—

"(A) pattern of gang activity (as that term is defined in section 521);

"(B) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(a))), or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

"(C) extortion, bribery, arson, burglary if the offense involves property valued at not less than $10,000, assault with a deadly weapon, assault resulting in bodily injury, shooting at an occupied dwelling or motor vehicle, or retaliation against or intimidation of witnesses, victims, jurors, or informants, in violation of the laws of the State in which the offense is committed or of the United States;

"(D) the use of bribery, force, intimidation, or threat, directed against any person, to delay or influence the testimony of or prevent from testifying a witness in a State criminal proceeding or by any such means to cause any person to destroy, alter, or conceal a record, document, or other object, with intent to impair the object's integrity or availability for use in such a proceeding; or

"(E) any act that is indictable under section 1956 or 1957 of this title or under subchapter II of chapter 53 of title 31.".

(b) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal Sentencing Guidelines to provide an appropriate increase in the offense levels for traveling in interstate or foreign commerce in aid of unlawful activity.

(2) DEFINITION OF UNLAWFUL ACTIVITY.—In this subsection, the term "unlawful activity" has the meaning given that term in section 1952(b) of title 18, United States Code, as amended by this section.

(3) SENTENCING ENHANCEMENT FOR RECRUITMENT ACROSS STATE LINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide an appropriate enhancement for a person who, in violating subsection (a), recruits, solicits, induces, commands, or causes another person residing in another State to be or to remain a member of a criminal gang, or crosses a State line with the intent to recruit, solicit, induce, command, or cause another person to be or to remain a member of a criminal gang.

SEC. 205. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL GANG ACTIVITY.

(a) PROHIBITED ACTS.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"§ 522. Recruitment of persons to participate in criminal gang activity

"(a) PROHIBITED ACT.—It shall be unlawful for any person to use any facility in, or travel in, interstate or foreign commerce, or cause another to do so, to recruit, solicit, induce, command, or cause another person to be or to remain as a member of a criminal gang, or conspire to do so.

"(b) PENALTIES.—Any person who violates subsection (a) shall—

"(1) if the person recruited, solicited, induced, commanded, or caused—

"(A) is a minor, be imprisoned for a term of not less than 4 years and not more than 10 years, fined in accordance with this title, or both; or

"(B) is not a minor, be imprisoned for a term of not less than 1 year and not more than 10 years, fined in accordance with this title, or both; and

"(2) be liable for any costs incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor attains the age of 18.

"(c) DEFINITIONS.—In this section:

"(1) CRIMINAL GANG.—The term 'criminal gang' has the meaning given the term in section 521.

"(2) MINOR.—The term 'minor' means a person who is younger than 18 years of age.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"522. Recruitment of persons to participate in criminal gang activity.".

SEC. 206. CRIMES INVOLVING THE RECRUITMENT OF PERSONS TO PARTICIPATE IN CRIMINAL GANGS AND FIREARMS OFFENSES AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(F)"; and

(2) by inserting before the semicolon at the end the following: ", (G) an offense under section 522 of this title, or (H) an offense under section 924(a) insofar as such offense is a violation of subsection (a)(1), (a)(4), (i), (j), (k), (o), (q), (u), (v), or (x)(1) of section 922, or subsection (b), (g), (h), (k), (l), or (m) of section 924 (relating to firearms violations), except that with respect to an offense under section 922 or 924 described in subparagraph (H), that offense shall be

considered to be a racketeering activity only if that offense is committed by a person who knowingly furthers a Federal offense that is a serious violent felony or a serious drug offense (as those terms are defined in section 3559(c)(2))".

SEC. 207. PROHIBITIONS RELATING TO FIREARMS.

(a) Youth Handgun Safety.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A);

(3) in subparagraph (A), as redesignated—

(A) by striking "A person other than a juvenile who knowingly" and inserting "A person who knowingly";

(B) in clause (i), by striking "not more than 1 year" and inserting "not more than 5 years"; and

(C) in clause (ii), by inserting "not less than 1 year and" after "imprisoned"; and

(4) by adding at the end the following:

"(B) Notwithstanding subparagraph (A), no mandatory minimum sentence shall apply to a juvenile who is less than 14 years of age.".

(b) Serious Juvenile Drug Offenses as Armed Career Criminal Predicates.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by adding "or" at the end; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that, if committed by an adult, would be an offense described in clause (i) or (ii);".

(c) Transfer of Firearms to Minors for Use in Crime.—Section 924(h) of title 18, United States Code, is amended by striking "10 years, fined in accordance with this title, or both" and inserting "10 years, and if the transferee is a person who is under 18 years of age, imprisoned for a term of not less than 3 years, fined in accordance with this title, or both".

SEC. 208. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) Short Title.—This section may be cited as the "James Guelff Body Armor Act of 1997".

(b) Definitions.—In this section:

(1) Body armor.—The term "body armor" means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) Law enforcement officer.—The term "law enforcement officer" means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(c) Sentencing Enhancement.—The United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide an appropriate sentencing enhancement, increasing the offense level not less than 2 levels, for any offense in which the defendant used body armor.

(d) Applicability.—No amendment made to the Federal Sentencing Guidelines pursuant to this section shall apply if the Federal offense in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of any person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 209. PRISON COMMUNICATIONS.

(a) In General.—Chapter 119 of title 18, United States Code, is amended by adding at the end the following:

"§ 2523. Exemption for communications in jails and prisons

"(a) In General.—This chapter and chapter 121 do not apply with respect to the interception by a law enforcement officer, or a person acting on behalf of a law enforcement officer, of any wire, oral, or electronic communication, or the use of a pen register, a trap and trace device, or a clone pager, if—

"(1) in the case of any wire, oral, or electronic communication, at least 1 of the parties to the communication is an inmate or detainee in the custody of—

"(A) the Attorney General of the United States; or

"(B) a State or political subdivision thereof; or

"(2) in the case of a pen register, a trap and trace device, or a clone pager, the facility is regularly used by an inmate or detainee in the custody of—

"(A) the Attorney General of the United States; or

"(B) a State or political subdivision thereof.

"(b) REGULATIONS.—The Attorney General shall promulgate regulations governing interceptions described in subsection (a) in order to protect—

"(1) communications that are privileged under any privilege recognized by the Supreme Court of the United States; and

"(2) the right to counsel guaranteed by the sixth amendment to the Constitution of the United States.

"(c) DEFINITION OF STATE.—In this subsection, the term 'State' means each of the several States of the United States, the District of Columbia, and the territories, commonwealths, and possessions of the United States."

(b) CONFORMING AMENDMENT.—The analysis for chapter 119 of title 18, United States Code, is amended by adding at the end the following:

"2523. Exemption for communications in jails and prisons."

SEC. 210. HIGH INTENSITY INTERSTATE GANG ACTIVITY AREAS.

(a) DEFINITIONS.—In this section:

(1) GOVERNOR.—The term "Governor" means a Governor of a State or the Mayor of the District of Columbia.

(2) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREA.—The term "high intensity interstate gang activity area" means an area within a State that is designated as a high intensity interstate gang activity area under subsection (b)(1).

(3) STATE.—The term "State" means a State of the United States or the District of Columbia.

(b) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREAS.—

(1) DESIGNATION.—The Attorney General, upon consultation with the Secretary of the Treasury and the Governors of appropriate States, may designate as a high intensity interstate gang activity area a specified area that is located—

(A) within a State; or

(B) in more than 1 State.

(2) ASSISTANCE.—In order to provide Federal assistance to a high intensity interstate gang activity area, the Attorney General may—

(A) facilitate the establishment of a regional task force, consisting of Federal, State, and local law enforcement authorities, for the coordinated investigation, disruption, apprehension, and prosecution of criminal activities of gangs and gang members in the high intensity interstate gang activity area; and

(B) direct the detailing from any Federal department or agency (subject to the approval of the head of that department or agency, in the case of a department or agency other than the Department of Justice) of personnel to the high intensity interstate gang activity area.

(3) CRITERIA FOR DESIGNATION.—In considering an area (within a State or within more than 1 State) for designation as a high intensity interstate gang activity area, the Attorney General shall consider—

(A) the extent to which gangs from the area are involved in interstate or international criminal activity;

(B) the extent to which the area is affected by the criminal activity of gang members who—

(i) are located in, or have relocated from, other States; or

(ii) are located in, or have immigrated (legally or illegally) from, foreign countries;

(C) the extent to which the area is affected by the criminal activity of gangs that originated in other States or foreign countries;

(D) the extent to which State and local law enforcement agencies have committed resources to respond to the problem of criminal gang activity in the area, as an indication of their determination to respond aggressively to the problem;

(E) the extent to which a significant increase in the allocation of Federal resources would enhance local response to gang-related criminal activities in the area; and

(F) any other criteria that the Attorney General considers to be appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $100,000,000 for each of fiscal years 1998 through 2002, to be used in accordance with paragraph (2).

(2) USE OF FUNDS.—Of the amounts authorized to be appropriated under paragraph (1)—

(A) 60 percent shall be used to carry out subsection (b)(2); and

(B) 40 percent shall be used to make grants for community-based programs to provide crime prevention and intervention services that are designed for gang members and at-risk youth in areas designated pursuant to this section as high intensity interstate gang activity areas.

(3) REQUIREMENT.—

(A) IN GENERAL.—The Attorney General shall ensure that not less than 10 percent of the amounts authorized under paragraph (1) are used to assist rural States affected as described in subparagraphs (B) and (C) of subsection (b)(3).

(B) DEFINITION OF RURAL STATE.—In this paragraph, the term "rural State" has the meaning given the term in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(b)).

SEC. 211. INCREASED RICO PENALTIES FOR GANG AND VIOLENT CRIMES.

Section 1963(a) of title 18, United States Code, is amended by striking "imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both," and inserting "imprisoned not more than the greater of 20 years or the statutory maximum term of imprisonment (including life imprisonment) applicable to a racketeering activity on which the violation is based, or both,".

SEC. 212. INCREASING THE PENALTY FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.

Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "as provided in paragraph (2)" and inserting "as provided in paragraph (3)";

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

"(A) influence, delay, or prevent the testimony of any person in an official proceeding;

"(B) cause or induce any person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

"(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

"(iv) be absent from an official proceeding to which such person has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3)."; and

(D) by amending paragraph (3)(B), as redesignated, to read as follows:

"(B) in the case of—

"(i) an attempt to murder; or

"(ii) the use of physical force against any person;

imprisonment for not more than 20 years.";

(2) in subsection (b), by striking "or physical force"; and

(3) by adding at the end the following:

"(j) Whoever conspires to commit any offense under this section or section 1513 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 213. CLONE PAGERS.

(a) WIRE AND ELECTRONIC COMMUNICATIONS.—

(1) Definitions.—Section 2510(12) of title 18, United States Code, is amended—

(A) in subparagraph (C), by striking "or" at the end;

(B) in subparagraph (D), by adding "or" at the end; and

(C) by adding at the end the following:

"(E) any communication made through a clone pager (as that term is defined in section 3127).".

(2) Prohibition.—Section 2511(2)(h) of title 18, United States Code, is amended by striking clause (i) and inserting the following:

"(i) to use a pen register, a trap and trace device, or a clone pager (as those terms are defined for the purposes of chapter 206 (relating to pen registers, trap and trace devices, and clone pagers)); or".

(b) Amendment of Chapter 206.—Chapter 206 of title 18, United States Code, is amended—

(1) in the chapter heading, by striking "AND TRAP AND TRACE DEVICES" and inserting ", TRAP AND TRACE DEVICES, AND CLONE PAGERS";

(2) in the chapter analysis—

(A) by striking "and trap and trace device" each place that term appears and inserting ", trap and trace device, and clone pager";

(B) by striking "and trap and trace devices" and inserting ", trap and trace devices, and clone pagers"; and

(C) by striking "or a trap and trace device" each place that term appears and inserting ", a trap and trace device, or a clone pager";

(3) in section 3121—

(A) in the section heading, by striking "**and trap and trace device**" and inserting "**, trap and trace device, and clone pager**"; and

(B) by striking "or a trap and trace device" each place that term appears and inserting ", a trap and trace device, or a clone pager";

(4) in section 3122—

(A) in the section heading, by striking "**or a trap and trace device**" and inserting "**, a trap and trace device, or a clone pager**"; and

(B) by striking "or a trap and trace device" each place that term appears and inserting ", a trap and trace device, or a clone pager";

(5) in section 3123—

(A) in the section heading, by striking "**or a trap and trace device**" and inserting "**, a trap and trace device, or a clone pager**";

(B) by striking subsection (a) and inserting the following:

"(a) In General.—Upon an application made under section 3122, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court, or of a clone pager for which the service provider is subject to the jurisdiction of the court, if the court finds that the attorney for the Government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.";

(C) in subsection (b)(1)—

(i) in subparagraph (A), by inserting before the semicolon the following: ", or, in the case of a clone pager, the identity, if known, of the person who is the subscriber of the paging device, the communications to which will be intercepted by the clone pager";

(ii) in subparagraph (C), by inserting before the semicolon the following: ", or, in the case of a clone pager, the number of the paging device, communications to which will be intercepted by the clone pager"; and

(iii) in paragraph (2), by striking "or trap and trace device" and inserting ", trap and trace device, or clone pager";

(D) in subsection (c), by striking "or a trap and trace device" and inserting ", a trap and trace device, or a clone pager"; and

(E) in subsection (d)—

(i) in the subsection heading, by striking "or a Trap and Trace Device" and inserting ", Trap and Trace Device, or Clone Pager"; and

(ii) in paragraph (2), by inserting "or the paging device, the communications to which will be intercepted by the clone pager," after "attached,";

(6) in section 3124—

(A) in the section heading, by striking "**or a trap and trace device**" and inserting "**, a trap and trace device, or a clone pager**";

(B) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(C) by inserting after subsection (b) the following:

"(c) CLONE PAGER.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to acquire and use a clone pager under this chapter, a Federal court may order, in accordance with section 3123(b)(2), a provider of a paging service or other person, to furnish to such investigative or law enforcement officer, all information, facilities, and technical assistance necessary to accomplish the operation and use of the clone pager unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the programming and use is to take place.";

(7) in section 3125—

(A) in the section heading, by striking "**and trap and trace device**" and inserting "**, trap and trace device, and clone pager**";

(B) in subsection (a), by striking "or a trap and trace device" and inserting ", a trap and trace device, or a clone pager"; and

(C) by striking "or trap and trace device" each place that term appears and inserting ", trap and trace device, or clone pager";

(8) in section 3126—

(A) in the section heading, by striking "**and trap and trace devices**" and inserting "**, trap and trace devices, and clone pagers**"; and

(B) by inserting "or clone pagers" after "devices"; and

(9) in section 3127—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following:

"(5) the term 'clone pager' means a numeric display device that receives communications intended for another numeric display paging device;".

TITLE III—JUVENILE CRIME CONTROL AND ACCOUNTABILITY

SEC. 301. FINDINGS; DECLARATION OF PURPOSE; DEFINITIONS.

Title I of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended to read as follows:

"TITLE I—FINDINGS AND DECLARATION OF PURPOSE

"SEC. 101. FINDINGS.

"Congress makes the following findings:

"(1) During the past several years, the United States has experienced an alarming increase in arrests of adolescents for murder, assault, and weapons offenses.

"(2) In 1994, juveniles accounted for 1 in 5 arrests for violent crimes, including murder, robbery, aggravated assault, and rape, including 514 such arrests per 100,000 juveniles 10 through 17 years of age.

"(3) Understaffed and overcrowded juvenile courts, prosecutorial and public defender offices, probation services, and correctional facilities no longer adequately address the changing nature of juvenile crime, protect the public, or correct youth offenders.

"(4) The juvenile justice system has proven inadequate to meet the needs of society, because insufficient sanctions are imposed on serious juvenile offenders, and because the needs of children, who may be at risk of becoming delinquents are not being met.

"(5) Existing programs and policies have not adequately responded to the particular threat that drugs, alcohol abuse, violence, and gangs pose to the youth of the Nation.

"(6) Projected demographic increases in the number of youth offenders require reexamination of current prosecution and incarceration policies for serious violent youth offenders and crime prevention policies.

"(7) State and local communities that experience directly the devastating failures of the juvenile justice system require assistance to deal comprehensively with the problems of juvenile delinquency.

"(8) Existing Federal programs have not provided the States with necessary flexibility, nor have these programs provided the coordination, resources, and leadership required to meet the crisis of youth violence.

"(9) Overlapping and uncoordinated Federal programs have created a multitude of Federal funding streams to State and local governments, that have become a barrier to effective program coordination, responsive public safety initiatives, and the provision of comprehensive services for children and youth.

"(10) Violent crime by juveniles constitutes a growing threat to the national welfare that requires an immediate and comprehensive governmental response, combining flexibility and coordinated evaluation.

"(11) Limited State and local resources are being wasted complying with the unnecessary Federal mandate that status offenders be deinstitutionalized. Some communities believe that curfews are appropriate for juveniles, and those communities should not be prohibited by the Federal Government from using confinement for status offenses as a means of dealing with delinquent behavior before it becomes criminal conduct.

"(12) Limited State and local resources are being wasted complying with the unnecessary Federal mandate that no juvenile be detained or confined in any jail or lockup for adults, because it can be feasible to separate adults and juveniles in 1 facility. This mandate is particularly burdensome for rural communities.

"(13) The role of the Federal Government should be to encourage and empower communities to develop and implement policies to protect adequately the public from serious juvenile crime as well as comprehensive programs to reduce risk factors and prevent juvenile delinquency.

"(14) A strong partnership among law enforcement, local government, juvenile and family courts, schools, businesses, philanthropic organizations, families, and the religious community, can create a community environment that supports the youth of the Nation in reaching their highest potential and reduces the destructive trend of juvenile crime.

"SEC. 102. PURPOSE AND STATEMENT OF POLICY.

"(a) In General.—The purposes of this Act are to—

"(1) protect the public and to hold juveniles accountable for their acts;

"(2) empower States and communities to develop and implement comprehensive programs that support families, reduce risk factors, and prevent serious youth crime and juvenile delinquency;

"(3) provide for the thorough and ongoing evaluation of all federally funded programs addressing juvenile crime and delinquency;

"(4) provide technical assistance to public and private nonprofit entities that protect public safety, administer justice and corrections to delinquent youth, or provide services to youth at risk of delinquency, and their families;

"(5) establish a centralized research effort on the problems of youth crime and juvenile delinquency, including the dissemination of the findings of such research and all related data;

"(6) establish a Federal assistance program to deal with the problems of runaway and homeless youth;

"(7) assist State and local governments in improving the administration of justice for juveniles;

"(8) assist the State and local governments in reducing the level of youth violence;

"(9) assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

"(10) encourage and promote programs designed to keep in school juvenile delinquents expelled or suspended for disciplinary reasons;

"(11) assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

"(12) assist State and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system;

"(13) assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

"(14) assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;

"(15) provide for the evaluation of federally assisted juvenile crime control programs, and the training necessary for the establishment and operation of such programs;

"(16) ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

"(17) provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.

"(b) STATEMENT OF POLICY.—It is the policy of Congress to provide resources, leadership, and coordination to—

"(1) combat youth violence and to prosecute and punish effectively violent juvenile offenders; and

"(2) improve the quality of juvenile justice in the United States.

"SEC. 103. DEFINITIONS.

"In this Act:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Office of Juvenile Crime Control and Accountability.

"(2) ADULT INMATE.—The term 'adult inmate' means an individual 18 years of age or older arrested and in custody for, awaiting trial on, or convicted of criminal charges or an act of juvenile delinquency committed while a juvenile.

"(3) CONSTRUCTION.—The term 'construction' means erection of new buildings or acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings).

"(4) SUSTAINED ORAL COMMUNICATION.—

"(A) IN GENERAL.—The term 'sustained oral communication' means oral communication that easily provides an opportunity for an adult inmate orally to threaten a juvenile.

"(B) EXCLUSION.—The term does not include any communication that is indirect, intermittent, or incidental, and that does not allow an adult inmate easily to threaten a juvenile orally.

"(5) FEDERAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY PROGRAM.—The term 'Federal juvenile crime control and juvenile offender accountability program' means any Federal program a primary objective of which is the reduction of the incidence of arrest, the commission of criminal acts or acts of delinquency, violence, the use of alcohol or illegal drugs, or involvement in gangs among juveniles.

"(6) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) JUVENILE POPULATION.—The term 'juvenile population' means the population of a State under 18 years of age.

"(8) OFFICE.—The term 'Office' means the Office of Juvenile Crime Control and Accountability established under section 201.

"(9) OUTCOME OBJECTIVE.—The term 'outcome objective' means an objective that relates to the impact of a program or initiative, that measures the reduction of high risk behaviors, such as incidence of arrest, the commission of criminal acts or acts of delinquency, failure in school, violence, the use of alcohol or illegal drugs, involvement of youth gangs, and teenage pregnancy, among youth in the community.

"(10) PROCESS OBJECTIVE.—The term 'process objective' means an objective that relates to the manner in which a program or initiative is carried out, including—

"(A) an objective relating to the degree to which the program or initiative is reaching the target population; and

"(B) an objective relating to the degree to which the program or initiative addresses known risk factors for youth problem behaviors and incorporates activities that inhibit the behaviors and that build on protective factors for youth.

"(11) PROHIBITED PHYSICAL CONTACT.—

"(A) IN GENERAL.—The term 'prohibited physical contact' means direct physical contact that provides an opportunity for an adult inmate physically to harm a juvenile, and includes placing juveniles and adult inmates in the same cell.

"(B) EXCLUSION.—The term does not include any contact that is indirect, intermittent, or incidental, and that does not allow an adult inmate physically to harm a juvenile.

"(12) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(13) STATE OFFICE.—The term 'State office' means an office designated by the chief executive officer of a State to carry out this title, as provided in section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

"(14) TREATMENT.—The term 'treatment' includes medical and other rehabilitative services designed to protect the public, including any services designed to benefit addicts and other users by—

"(A) eliminating their dependence on alcohol or other addictive or nonaddictive drugs; or

"(B) controlling or reducing their dependence and susceptibility to addiction or use.

"(15) YOUTH.—The term 'youth' means an individual who is not less than 6 years of age and not more than 17 years of age.

"(16) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means—

"(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

"(B) any law enforcement district or judicial enforcement district that—

"(i) is established under applicable State law; and

"(ii) has the authority to, in a manner independent of other State entities, establish a budget and raise revenues;

"(C) an Indian tribe which performs law enforcement functions, as determined by the Secretary of the Interior; or

"(D) for the purposes of assistance eligibility, any agency of the government of the District of Columbia or the Federal Government that performs law enforcement functions in and for—

"(i) the District of Columbia; or

"(ii) any Trust Territory of the United States.".

SEC. 302. NATIONAL PROGRAM.

(a) OFFICE OF JUVENILE CRIME CONTROL AND ACCOUNTABILITY.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended—

(1) in subsection (a), by striking "Office of Juvenile Justice and Delinquency Prevention" and inserting "Office of Juvenile Crime Control and Accountability"; and

(2) by adding at the end the following:

"(d) DELEGATION AND ASSIGNMENT.—

"(1) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided by this title, the Administrator may—

"(A) delegate any of the functions of the Administrator, and any function transferred or granted to the Administrator after the date of enactment of the Violent and Repeat Juvenile Offender Act of 1997, to such officers and employees of the Office as the Administrator may designate; and

"(B) authorize successive redelegations of such functions as may be necessary or appropriate.

"(2) RESPONSIBILITY.—No delegation of functions by the Administrator under this subsection or under any other provision of this title shall relieve the Administrator of responsibility for the administration of such functions.

"(e) REORGANIZATION.—The Administrator may allocate or reallocate any function transferred among the officers of the Office, and establish, consolidate, alter, or discontinue such organizational entities in that Office as may be necessary or appropriate.".

(b) NATIONAL PROGRAM.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended to read as follows:

"SEC. 204. NATIONAL PROGRAM.

"(a) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY PLAN.—

"(1) IN GENERAL.—The Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out such plan, for all Federal juvenile crime control and juvenile offender accountability programs and activities relating to improving juvenile crime control and the enhancement of accountability by offenders within the juvenile justice system in the United States.

"(2) CONTENTS OF PLANS.—

"(A) IN GENERAL.—Each plan described in paragraph (1) shall—

"(i) contain specific, measurable goals and criteria for reducing the incidence of crime and delinquency among juveniles, improving juvenile crime control, and ensuring accountability by offenders within the juvenile justice system in the United States, and shall include criteria for any discretionary grants and contracts, for conducting research, and for carrying out other activities under this title;

"(ii) provide for coordinating the administration of programs and activities under this title with the administration of all other Federal juvenile crime control and juvenile offender accountability programs and activities, including proposals for joint funding to be coordinated by the Administrator;

"(iii) provide a detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, the time served by juveniles in custody, and the trends demonstrated by such data;

"(iv) provide a description of the activities for which amounts are expended under this title;

"(v) provide specific information relating to the attainment of goals set forth in the plan, including specific, measurable standards for assessing progress toward national juvenile crime reduction and juvenile offender accountability goals; and

"(vi) provide for the coordination of Federal, State, and local initiatives for the reduction of youth crime and ensuring accountability for juvenile offenders.

"(B) SUMMARY AND ANALYSIS.—Each summary and analysis under subparagraph (A)(iii) shall set out the information required by clauses (i), (ii), and (iii) of this subparagraph separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

"(i) the types of offenses with which the juveniles are charged;

"(ii) the ages of the juveniles;

"(iii) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

"(iv) the length of time served by juveniles in custody; and

"(v) the number of juveniles who died or who suffered serious bodily injury while in custody and the circumstances under which each juvenile died or suffered such injury.

"(C) DEFINITION OF SERIOUS BODILY INJURY.—In this paragraph, the term 'serious bodily injury' means bodily injury involving extreme physical pain or the impairment of a function of a bodily member, organ, or mental faculty that requires medical intervention such as surgery, hospitalization, or physical rehabilitation.

"(3) ANNUAL REVIEW.—The Administrator shall annually—

"(A) review each plan submitted under this subsection;

"(B) revise the plans, as the Administrator considers appropriate; and

"(C) not later than March 1 of each year, present the plans to the Committees on the Judiciary of the Senate and the House of Representatives.

"(b) DUTIES OF ADMINISTRATOR.—In carrying out this title, the Administrator shall—

"(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile crime control and juvenile offender accountability programs, and Federal policies regarding juvenile crime and justice, including policies relating to juveniles prosecuted or adjudicated in the Federal courts;

"(2) implement and coordinate Federal juvenile crime control and juvenile offender accountability programs and activities among Federal departments and agencies and between such programs and activities and other Federal programs and activities that the Administrator determines may have an important bearing on the success of the entire national juvenile crime control and juvenile offender accountability effort including, in consultation with the Director of the Office of Management and Budget listing annually those programs to be considered Federal juvenile crime control and juvenile accountability programs for the following fiscal year;

"(3) provide for the auditing of grants provided pursuant to this title;

"(4) collect, prepare, and disseminate useful data regarding the prevention, correction, and control of juvenile crime and delinquency, and issue, not less frequently than once each calendar year, a report on successful programs and juvenile crime reduction methods utilized by States, localities, and private entities;

"(5) ensure the performance of comprehensive rigorous independent scientific evaluations, each of which shall—

"(A) be independent in nature, and shall employ rigorous and scientifically valid standards and methodologies; and

"(B) include measures of outcome and process objectives, such as reductions in juvenile crime, youth gang activity, youth substance abuse, and other high risk factors, as well as increases in protective factors that reduce the likelihood of delinquency and criminal behavior;

"(6) involve consultation with appropriate authorities in the States and with appropriate private entities in the development, review, and revision of the plans required by subsection (a) and in the development of policies relating to juveniles prosecuted or adjudicated in the Federal courts; and

"(7) provide technical assistance to the States, units of local government, and private entities in implementing programs funded by grants under this title.

"(c) National Juvenile Crime Control and Juvenile Offender Accountability Budget.—

"(1) In general.—The Administrator, through the Attorney General shall—

"(A) develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities for any Federal juvenile crime control or juvenile offender accountability program, a consolidated National Juvenile Crime Control and Juvenile Offender Accountability Plan budget proposal to implement the National Juvenile Crime Control and Juvenile Offender Accountability Plan; and

"(B) transmit such budget proposal to the President and to Congress.

"(2) Submission of juvenile offender accountability budget request.—

"(A) In general.—Each Federal Government program manager, agency head, and department head with responsibility for any Federal juvenile crime control or juvenile offender accountability program shall, through the Attorney General, submit the juvenile crime control and juvenile offender accountability budget request of the program, agency, or department to the Administrator at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

"(B) Timely development and submission.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall ensure timely development and submission to the Administrator of juvenile crime control and juvenile offender accountability budget requests transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget.

"(3) Review and certification.—The Administrator shall—

"(A) review each juvenile crime control and juvenile offender accountability budget request transmitted to the Administrator under paragraph (2);

"(B) certify in writing as to the adequacy of such request in whole or in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, include in the certification an initiative or funding level that would make the request adequate; and

"(C) notify the program manager, agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (B).

"(4) Recordkeeping requirement.—The Administrator shall maintain records regarding certifications under paragraph (3)(B).

"(5) Funding requests.—The Administrator, through the Attorney General, shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.

"(6) Reprogramming and transfer requests.—

"(A) In general.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program for which primary implementing authority lies outside the Department of Justice shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated amounts greater than $5,000,000 that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget unless such request is first submitted to the Administrator through the Attorney General and such request has been approved by the Administrator.

"(B) Appeal to president.—The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program for which primary implementing authority lies outside the Department of Justice may appeal to the President any disapproval by the Administrator of a reprogramming or transfer request.

"(7) Quarterly reports.—The Administrator shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated amounts for National Juvenile Crime Control and Juvenile Offender Accountability Plan activities.

"(8) Exercise of authority.—In carrying out the duties under this subsection, the Administrator may exercise, through the Attorney General, authority over those departments, agencies, offices, bureaus, and other components of the Federal Government with responsibility for a juvenile crime control or juvenile offender accountability program, with respect to such program.

"(d) Information, Reports, Studies, and Surveys From Other Agencies.—The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile crime control and juvenile offender accountability program to provide the Administrator with such information and reports, and to conduct such studies and surveys, as the Administrator determines to be necessary to carry out the purposes of this title.

"(e) Utilization of Services and Facilities of Other Agencies; Reimbursement.—The Administrator may utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

"(f) Coordination of Functions of Administrator and Secretary of Health and Human Services.—All functions of the Administrator shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III.

"(g) Annual Juvenile Delinquency Development Statements.—

"(1) In general.—The Administrator shall require through appropriate authority each Federal agency that administers a Federal juvenile crime control and juvenile offender accountability program to submit annually to the Office a juvenile crime control and juvenile offender accountability development statement. Such statement shall be in addition to any information, report, study, or survey that the Administrator may require under subsection (d).

"(2) Contents.—Each development statement submitted to the Administrator under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile crime control and juvenile offender accountability prevention and treatment goals and policies.

"(3) Review and comment.—

"(A) In general.—The Administrator shall review and comment upon each juvenile crime control and juvenile offender accountability development statement transmitted to the Administrator under paragraph (1).

"(B) Inclusion in other documentation.—Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation that significantly affects juvenile crime control and juvenile offender accountability.

"(h) Joint Funding.—Notwithstanding any other provision of law, if funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced whenever the Administrator finds the program or activity to be exceptionally effective or for which the Administrator finds exceptional need. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in those regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.".

SEC. 303. JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY INCENTIVE BLOCK GRANTS.

(a) IN GENERAL.—Section 205 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5615) is amended to read as follows:

"SEC. 205. JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY INCENTIVE BLOCK GRANTS.

"(a) IN GENERAL.—The Administrator shall make, subject to the availability of appropriations, grants to States to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective investigation, prosecution, and punishment (including the imposition of graduated sanctions) of crimes or acts of delinquency committed by juveniles, programs to improve the administration of justice for and ensure accountability by juvenile offenders, and programs to reduce the risk factors (such as truancy, drug or alcohol use, and gang involvement) associated with juvenile crime or delinquency.

"(b) USE OF GRANTS.—Grants under this title may be used—

"(1) for programs to enhance the identification, investigation, prosecution, and punishment of juvenile offenders, such as—

"(A) the utilization of graduated sanctions;

"(B) the utilization of short-term confinement of juvenile offenders;

"(C) the incarceration of violent juvenile offenders for extended periods of time; and

"(D) the hiring of juvenile prosecutors, juvenile public defenders, juvenile judges, juvenile probation officers, and juvenile correctional officers to implement policies to control juvenile crime and ensure accountability of juvenile offenders;

"(2) for programs that require juvenile offenders to make restitution to the victims of offenses committed by those juvenile offenders;

"(3) for programs that require juvenile offenders to attend and successfully complete school or vocational training as part of a sentence imposed by a court;

"(4) for programs that require juvenile offenders who are parents to demonstrate parental responsibility by working and paying child support;

"(5) for programs that seek to curb or punish truancy;

"(6) for programs designed to collect, record, retain, and disseminate information useful in the identification, prosecution, and sentencing of juvenile offenders, such as criminal history information, fingerprints, DNA tests, and ballistics tests;

"(7) for juvenile crime control and prevention programs (such as nighttime curfews, youth organizations, antidrug programs, drug testing of offenders, antigang programs, and after school activities) that include a rigorous, comprehensive evaluation component that measures the decrease in risk factors associated with the juvenile crime and delinquency and employs scientifically valid standards and methodologies;

"(8) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and treatment of the most serious juvenile offenses and offenders, popularly known as a 'SHOCAP Program' (Serious Habitual Offenders Comprehensive Action Program);

"(9) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and disruption of youth gangs;

"(10) for the construction or remodeling of short- and long-term facilities for juvenile offenders;

"(11) for the development and implementation of training programs for juvenile crime control, for law enforcement officers, judges, prosecutors, probation officers, and other court personnel who are employed by State and local governments, in furtherance of the purposes identified in this section;

"(12) to provide literacy and job training to juvenile offenders;

"(13) to provide substance abuse treatment for juvenile offenders who have a substance abuse problem;

"(14) for units of local government, nonprofit community-based organizations, and colleges or universities to develop and implement juvenile crime and delinquency prevention programs, on the condition that the funds will not be used to supplant or duplicate existing public or nonprofit programs, services, or facilities, especially in rural areas; and

“(15) for programs to seek to target, curb, and punish adults who knowingly and intentionally use a juvenile during the commission or attempted commission of a crime, including programs that specifically provide for additional punishments or sentence enhancements for adults who knowingly and intentionally use a juvenile during the commission or attempted commission of a crime.

“(c) REQUIREMENTS.—To be eligible to receive an incentive grant under this section, a State shall make reasonable efforts, as certified by the Governor, to ensure that, not later than July 1, 2000—

“(1) juveniles age 14 and older may be prosecuted under State law as adults, for an act that would be a serious violent felony (as defined by State law) if committed by an adult;

“(2) the State has established graduated sanctions for juvenile offenders, including sanctions for violations of terms of release;

“(3) the State, except in the case of a State for any fiscal year through fiscal year 2002 that, for the 5 years preceding the Federal Bureau of Investigation's Uniform Crime Reports for 1996, was among the 5 percent of States with the lowest reported rate per 100,000 persons age 10 to 17 arrested for a violent crime, as reported by the Office of Juvenile Justice and Delinquency Prevention, in its National Reports on Juvenile Offenders and Victims—

“(A) requires that juveniles who are arrested for, or charged with, a crime of violence or an act that would be a felony if committed by an adult, are fingerprinted and photographed, and that the fingerprints, photographs, and notation of the arrest of the juvenile are sent to the Federal Bureau of Investigation;

“(B) maintains a record relating to the adjudication or disposition that is—

“(i) equivalent to the record that would be kept of an adult conviction for that offense;

“(ii) retained for a period of time that is equal to the period of time records are kept for adult convictions;

“(iii) made available to law enforcement agencies of any jurisdiction;

“(iv) made available to officials of a school, school district, or postsecondary school in which the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll, and that such officials are held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, under Federal and State law for handling and disclosing such information;

“(v) made available to any court having jurisdiction over such an individual, for the purpose of allowing the court to consider the entire juvenile history of the individual; and

“(vi) sent to the Federal Bureau of Investigation;

“(4) the State will not detain or confine any juvenile who is alleged to be or determined to be delinquent—

“(A) in any institution in which the juvenile has prohibited physical contact with adult inmates; or

“(B) for a period of more than 72 hours in any institution in which an adult inmate and a juvenile can engage in sustained oral communication;

“(5) the State has established local advisory groups that represent units of local government, and that—

“(A) are balanced and include participants in every phase of juvenile crime control, including the local prosecutor, a juvenile judge, a juvenile probation officer, a public defender, the sheriff, the chief of police, and a juvenile correctional officer and other citizens, as appointed by the chief juvenile judge of the unit of local government; and

“(B) will conduct a thorough assessment of the case processing in juvenile court from arrest to disposition and punishment and effectuate the necessary changes to make the system more efficient, to more effectively control juvenile crime, and to ensure the accountability of juvenile offenders;

“(6) the State has an established policy of drug testing (including followup testing) juvenile offenders upon their arrest for any offense within an appropriate category of offenses designated by the chief executive officer of the State; and

“(7) amounts made available under this part to the States (or units of local government in the State) will not be used to supplant State or local funds (or in the case of Indian tribal governments, to supplant amounts provided by the Bureau of Indian Affairs) but shall be used to increase the amount of funds that would in the absence of amounts received under this part, be made available from a State or local source, or in the case of Indian tribal governments, from amounts provided by the Bureau of Indian Affairs.

"(d) VALIDITY OF CERTAIN JUDGMENTS.—Nothing in this section shall require States, in order to qualify for grants under this title, to modify laws concerning the status of any adjudication of juvenile delinquency or judgment of conviction under the law of the State that entered the judgment.

"(e) DISTRIBUTION BY STATE OFFICES TO ELIGIBLE APPLICANTS.—

"(1) IN GENERAL.—Of amounts made available to the State—

"(A) not less than 35 percent shall be designated for programs pursuant to subparagraphs (A), (B), and (C) of subsection (b)(1) and pursuant to subsection (b)(10), except that if the State approves a grant for purposes of construction or remodeling of short- or long-term facilities, that grant shall constitute not more than 50 percent of the estimated construction or remodeling cost and that no funds expended pursuant to this paragraph may be used for the incarceration of adult offenders and no funds expended pursuant to this paragraph may be used for construction, renovation, or expansion of facilities for adult offenders, except that funds may be used to construct juvenile facilities co-located with adult facilities, including separate buildings for juveniles and separate juvenile wings, cells, or areas co-located within an adult jail or lockup;

"(B) not less than 10 percent shall be designated for the enhancement of juvenile record collection and dissemination pursuant to subsection (b)(6) and subsection (c)(3);

"(C) not less than 15 percent shall be designated for drug testing upon arrest for any offense within the category of offenses designated pursuant to subsection (c)(6), and intensive supervision thereafter pursuant to subsections (b)(7) and (c)(6); and

"(D) not less than 75 percent shall be allocated to units of local government within the State, unless the provisions of this subparagraph are waived at the discretion of the Administrator with respect to any State in which the services for delinquent or other youth are organized primarily on a statewide basis.

"(2) ELIGIBLE APPLICANTS.—Entities eligible to receive amounts distributed by the State office under this title are—

"(A) units of local government;

"(B) local police or sheriff's departments;

"(C) State or local prosecutor's offices;

"(D) State or local courts responsible for the administration of justice in cases involving juvenile offenders;

"(E) schools;

"(F) nonprofit, educational, religious, or community groups active in crime prevention or drug use prevention and treatment; or

"(G) any combination of the entities described in subparagraphs (A) through (F).

"(f) APPLICATION TO STATE OFFICE.—

"(1) IN GENERAL.—To be eligible to receive amounts from the State office, the applicant shall prepare and submit to the State office an application in written form that—

"(A) describes the types of activities and services for which the amount will be provided;

"(B) includes information indicating the extent to which the activities and services achieve the purposes of the title;

"(C) provides for the evaluation component required by section 204(b)(2), which evaluation shall be conducted by an independent entity;

"(D) with respect to construction funds, provides an assessment of the need for detention facilities in the relevant jurisdiction; and

"(E) provides any other information that the State office may require.

"(2) PRIORITY.—In approving applications under this section, the State office should give priority to those applicants demonstrating coordination with, consolidation of, or expansion of existing State or local juvenile crime control and juvenile offender accountability programs.

"(g) FUNDING PERIOD.—The State office may award such a grant for a period of not more than 3 years.

"(h) RENEWAL OF GRANTS.—The State office may renew grants made under this title. After the initial grant period, in determining whether to renew a grant to an entity to carry out activities, the State office shall give substantial weight to the effectiveness of the activities in achieving reductions in crimes committed by juveniles and in improving the administration of justice to juvenile offenders.".

(b) Repeals; Administrative Provisions.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by striking sections 206 and 207 and inserting the following:

"SEC. 206. ALLOCATION OF GRANTS AND AUTHORIZATION OF APPROPRIATIONS; GRANTS TO INDIAN TRIBES.

"(a) Allocation of Grant Amounts.—

"(1) In general.—Subject to paragraph (2), amounts made available under section 205 or part B shall be allocated to the States as follows:

"(A) 0.75 percent shall be allocated to each State.

"(B) Of the total amount remaining after the allocation under subparagraph (A), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this subparagraph as the juvenile population of such State bears to the juvenile population of all the States.

"(2) Exceptions.—

"(A) In general.—The amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 and not more than $100,000.

"(B) Reductions.—In the case of a State which is exempt from the requirements of sections 205(c)(3), and that elects not to comply with the requirements of such subparagraph, such State's allocation under this paragraph shall be reduced by an amount equal to the amount which such State would be required to designate under section 205(e)(1)(B), or by 10 percent, whichever is less.

"(3) Reallocation prohibited.—Any amounts appropriated but not allocated due to the ineligibility or nonparticipation of any State shall not be reallocated, but shall revert to the Treasury at the end of the fiscal year for which they were appropriated.

"(4) Administrative costs.—A State, unit of local government, or eligible unit that receives funds under this part may not use more than 0.5 percent of those funds to pay for administrative costs.

"(5) Religious nondiscrimination.—

"(A) In general.—The purpose of this paragraph is to allow State and local governments to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in this title, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

"(B) Nondiscrimination against religious organizations.—A State or local government exercising its authority to distribute grants to applicants under this title shall ensure that religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in this title, so long as the programs are implemented consistent with the Establishment Clause of the Constitution. Except as provided in subparagraph (J), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization that is or that applies to be a contractor to provide assistance, or that is or that applies to be a contractor to provide assistance, or that accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

"(C) Religious character and freedom.—

"(i) Religious organizations.—A religious organization that participates in a program authorized by this title shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

"(ii) Additional safeguards.—Neither the Federal Government nor a State shall require a religious organization to—

"(I) alter its form of internal governance; or

"(II) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursements, funded under a program described in this title.

"(D) Rights of beneficiaries of assistance.—If a beneficiary has an objection to the religious character of the organization or institution from which the beneficiary receives, or would receive, assistance funded under any program described in this title, the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider.

"(E) Employment practices.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in this title.

"(F) Nondiscrimination against beneficiaries.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in this title on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

"(G) Fiscal accountability.—

"(i) In general.—Subject to clause (ii), any religious organization contracting to provide assistance funded under any program under this title shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

"(ii) Limited audit.—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

"(H) Compliance.—Any party that seeks to enforce its rights under this paragraph may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

"(I) Limitations on use of funds for certain purposes.—No funds provided through contracts entered into with institutions or organizations to provide services and administer programs under this title shall be expended for sectarian worship, instruction, or proselytization.

"(J) Preemption.—Nothing in this paragraph shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

"(6) Restrictions on the use of amounts.—

"(A) Experimentation on individuals.—

"(i) In general.—No amounts made available to carry out this title may be used for any biomedical or behavior control experimentation on individuals or any research involving such experimentation.

"(ii) Definition of behavior control.—In this subparagraph, the term 'behavior control'—

"(I) means any experimentation or research employing methods that—

"(aa) involve a substantial risk of physical or psychological harm to the individual subject; and

"(bb) are intended to modify or alter criminal and other antisocial behavior, including aversive conditioning therapy, drug therapy, chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment; and

"(II) does not include a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain substance abuse treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

"(B) Prohibition against private agency use of amounts in construction.—No amount made available to any private agency or institution, or to any individual, under this title (either directly or through a State office) may be used for construction.

"(C) Job training.—Except as provided in section 222(a)(8)(B)(vi) or section 205(b)(12), no amount made available under this title may be used to carry out a youth employment program to provide subsidized employment opportunities, job training activities, or school-to-work activities for participants.

"(D) LOBBYING.—

"(i) IN GENERAL.—Except as provided in clause (ii), no amount made available under this title to any public or private agency, organization or institution, or to any individual shall be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or other legislation, or any referendum, initiative, constitutional amendment, or any other procedure of Congress, any State legislature, any local council, or any similar governing body.

"(ii) EXCEPTION.—This subparagraph does not preclude the use of amounts made available under this title in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

"(E) LEGAL ACTION.—No amounts made available under this title to any public or private agency, organization, institution, or to any individual, shall be used in any way directly or indirectly to file an action or otherwise take any legal action against any Federal, State, or local agency, institution, or employee.

"(7) PENALTIES.—

"(A) IN GENERAL.—If any amounts are used for the purposes prohibited in either subparagraph (D) or (E) of paragraph (6), or in violation of paragraph (5)—

"(i) all funding for the agency, organization, institution, or individual at issue shall be immediately discontinued; and

"(ii) the agency, organization, institution, or individual using amounts for the purpose prohibited in subparagraph (D) or (E) of paragraph (6), or in violation of paragraph (5), shall be liable for reimbursement of all amounts granted to the individual or entity for the fiscal year for which the amounts were granted.

"(B) LIABILITY FOR EXPENSES AND DAMAGES.—In relation to a violation of paragraph (6)(E), the individual filing the lawsuit or responsible for taking the legal action against the Federal, State, or local agency or institution, or individual working for the Government, shall be individually liable for all legal expenses and any other expenses of the Government agency, institution, or individual working for the Government, including damages assessed by the jury against the Government agency, institution, or individual working for the Government, and any punitive damages.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(A) $700,000,000 for fiscal year 1998;
"(B) $700,000,000 for fiscal year 1999;
"(C) $700,000,000 for fiscal year 2000;
"(D) $700,000,000 for fiscal year 2001; and
"(E) $700,000,000 for fiscal year 2002.

"(2) ALLOCATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated under paragraph (1) for each fiscal year—

"(A) $500,000,000 shall be for programs under section 205;
"(B) $50,000,000 shall be for programs under section 290; and
"(C) $150,000,000 shall be for other programs under this title.

"(3) AUTHORIZATION OF APPROPRIATIONS FOR EVALUATION PROGRAMS.—There are authorized to be appropriated for the National Institute for Juvenile Justice and Delinquency Prevention for research, demonstration, and evaluation, $50,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, of which $20,000,000 shall be for evaluation research of primary, secondary, and tertiary juvenile delinquency programs.

"(4) SOURCE OF SUMS.—Sums authorized to be appropriated pursuant to this subsection may be derived from the Violent Crime Reduction Trust Fund.

"(5) SPECIAL GRANTS.—

"(A) INDIAN TRIBES.—

"(i) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, from the amounts appropriated pursuant to paragraph (1), for each fiscal year, the Administrator shall reserve an amount equal to the amount to which all Indian tribes that qualify for a grant under subsection (d) would collectively be entitled, if such tribes were collectively treated as a State to carry out this paragraph.

"(ii) GRANTS TO INDIAN TRIBES.—From the amounts reserved under clause (i), the Administrator shall make grants to Indian tribes for programs pursuant to the permissible purposes under section 205 and part B.

"(iii) APPLICATIONS.—To be eligible to receive a grant under this paragraph, an Indian tribe shall submit to the Administrator an application in such form and containing such information as the Administrator may by regulation require. The requirements of paragraphs (2), (3), and (5) of section 205(c) shall apply to grants under this paragraph.

"(B) TECHNICAL ASSISTANCE.—From the amounts appropriated pursuant to paragraph (1), in each fiscal year the Administrator may reserve 0.1 percent for the purpose of providing technical assistance to recipients of grants under this title.

"(6) ADMINISTRATION AND OPERATIONS.—There are authorized to be appropriated for the administration and operation of the Office of Juvenile Crime Control and Accountability such sums as may be necessary for each of fiscal years 1998, 1999, 2000, and 2001.

"(7) AVAILABILITY OF FUNDS.—Amounts made available pursuant to this subsection, and allocated pursuant to paragraph (1) in any fiscal year shall remain available until expended.

"(c) SYSTEM SUPPORT GRANTS.—Of amounts appropriated pursuant to part B, an amount not to exceed 10 percent of those amounts may be available for use by the Administrator to provide—

"(1) training and technical assistance consistent with the purposes authorized under sections 204, 205, and 221;

"(2) direct grant awards and other support to develop, test, and demonstrate new approaches to improving the juvenile justice system and reducing and abating delinquent behavior, juvenile crime, and youth violence;

"(3) for research and evaluation efforts to discover and test methods and practices to improve the juvenile justice system and reduce and abate delinquent behavior, juvenile crime, and youth violence; and

"(4) information, including information on best practices, consistent with purposes authorized under sections 204, 205, and 221.

"(d) GRANTS TO INDIAN TRIBES.—

"(1) IN GENERAL.—

"(A) PLANS.—As part of an application for a grant under this subsection, an Indian tribe shall submit a plan for conducting activities described in section 205(b). The plan shall—

"(i) provide evidence that the Indian tribe performs law enforcement functions (as determined by the Secretary of the Interior);

"(ii) identify the juvenile justice and delinquency problems and juvenile delinquency prevention needs to be addressed by activities conducted by the Indian tribe in the area under the jurisdiction of the Indian tribe with assistance provided by the grant;

"(iii) provide for fiscal control and accounting procedures that—

"(I) are necessary to ensure the prudent use, proper disbursement, and accounting of funds received under this subchapter; and

"(II) are consistent with the requirements of paragraph (2); and

"(iv) contain such other information, and be subject to such additional requirements, as the Administrator may reasonably prescribe to ensure the effectiveness of the grant program under this subpart.

"(B) FACTORS FOR CONSIDERATION.—In awarding grants under this section, the Administrator shall consider—

"(i) the resources that are available to each applicant that will assist, and be coordinated with, the overall juvenile justice system of the Indian tribe; and

"(ii) for each Indian tribe that receives assistance under such a grant—

"(I) the relative population of individuals under the age of 18; and

"(II) who will be served by the assistance provided by the grant.

"(C) GRANT AWARDS.—

"(i) IN GENERAL.—

"(I) COMPETITIVE AWARDS.—Except as provided in clause (ii), the Administrator shall annually award grants under this section on a competitive basis. The Administrator shall enter into a grant agreement with each grant recipient under this subsection that specifies the terms and conditions of the grant.

"(II) Period of Grant.—The period of a grant awarded under this subsection shall be 1 year.

"(ii) Exception.—In any case in which the Administrator determines that a grant recipient under this section has performed satisfactorily during the preceding year in accordance with an applicable grant agreement, the Administrator may—

"(I) waive the requirement that the recipient be subject to the competitive award process described in clause (i); and

"(II) renew the grant for an additional grant period (as specified in clause (i)(II)).

"(iii) Modifications of processes.—The Administrator may prescribe requirements to provide for appropriate modifications to the plan preparation and application process specified in this section for an application for a renewal grant under this subsection.

"(2) Reporting requirement.—Each Indian tribe that receives a grant under paragraph (1) is subject to the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(3) Matching requirement.—Funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of any program or project with a matching requirement funded under this paragraph.

"(4) Rule of construction.—Nothing in this subsection may be construed to affect in any manner the jurisdiction of an Indian tribe with respect to land or persons in Alaska.

"SEC. 207. ADMINISTRATIVE PROVISIONS.

"(a) Authority of Administrator.—The Office shall be administered by the Administrator under the general authority of the Attorney General.

"(b) Applicability of Certain Crime Control Provisions.—Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d(c), 3789f(a), 3789f(b), 3789f(c), 3789g(a), 3789g(b), 3789g(d)) shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

"(1) any reference to the Office of Justice Programs in such sections shall be considered to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

"(2) the term 'this title' as it appears in such sections shall be considered to be a reference to this Act.

"(c) Applicability of Certain Other Crime Control Provisions.—Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a), 3711(c), and 3787) shall apply with respect to the administration of and compliance with this Act, except that, for purposes of this Act—

"(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be considered to be a reference to the Administrator;

"(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be considered to be a reference to the Office of Juvenile Crime Control and Accountability; and

"(3) the term 'this title' as it appears in those sections shall be considered to be a reference to this Act.

"(d) Rules, Regulations, and Procedures.—The Administrator may, after appropriate consultation with representatives of States and units of local government, establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

"(e) Withholding.—The Administrator shall initiate such proceedings as the Administrator determines to be appropriate if the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

"(1) the program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or

"(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title.".

SEC. 304. STATE PLANS.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in part B—

(A) in section 221, by striking "units of general local government" each place that term appears and inserting "units of local government";

(B) in section 221(b)—

(i) in paragraph (1)—

(I) by striking "section 223" and inserting "section 222"; and

(II) by striking "section 223(c)" and inserting "section 222(c)"; and

(ii) in paragraph (2), by striking "section 299(c)(1)" and inserting "section 222(a)(1)"; and

(C) by striking sections 222 and 223 and inserting the following:

"SEC. 222. STATE PLANS.

"(a) IN GENERAL.—In order to receive formula grants under this part, a State shall submit a plan, developed in consultation with the State Advisory Group established by the State under subsection (b)(2)(A), for carrying out its purposes applicable to a 3-year period. The State shall submit annual performance reports to the Administrator, each of which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations that the Administrator shall prescribe, such plan shall—

"(1) designate a State agency as the sole agency for supervising the preparation and administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

"(3) provide for the active consultation with and participation of units of local government, or combinations thereof, in the development of a State plan that adequately takes into account the needs and requests of local governments, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies, including religious organizations;

"(4) provide that the chief executive officer of the unit of local government shall assign responsibility for the preparation and administration of the unit of local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the unit of local government's structure or to a regional planning agency (in this part referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

"(5)(A) provide for—

"(i) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the jurisdiction;

"(ii) an indication of the manner in which the programs relate to other similar State or local programs that are intended to address the same or similar problems; and

"(iii) a plan for the concentration of State efforts, which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

"(B) contain—

"(i) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

"(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

"(C) contain—

"(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

"(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;

"(6) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, special education, recreation, health, and welfare within the State;

"(7) provide for the development of an adequate research, training, and evaluation capacity within the State;

"(8) provide that, of the funds made available to the State pursuant to grants under section 221, whether expended directly by the State, by the unit of local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies—

"(A) not less than 40 percent shall be used for programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(i) implement an accountability-based juvenile justice system that provides substantial and appropriate sanctions, that are graduated to reflect the severity or repeated nature of violations, for each delinquent or criminal act;

"(ii) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(iii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior; and

"(B) not less than 35 percent shall be used for—

"(i) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

"(I) for youth who can remain at home with assistance, home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

"(II) for youth who need temporary placement, crisis intervention, shelter, and after-care; and

"(III) for youth who need residential placement, a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

"(ii) community-based programs and services to work with—

"(I) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

"(II) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

"(III) parents with limited-English speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

"(iii) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

"(iv) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(v) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

"(vi) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

"(vii) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

"(viii) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(ix) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration; and

"(x) programs (including referral to literacy programs and social service programs) to assist families with limited-English speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

"(9) provide that the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has prohibited physical contact with adult inmates, or detain or confine any such juvenile for a period of more than 72 hours in any institution in which an adult inmate and a juvenile can engage in sustained oral communication;

"(10)(A) provide that juveniles described in subparagraph (B)—

"(i) shall not be confined in any jail, lockup, or other facility for adults for more than 24 hours, excluding weekends and holidays; and

"(ii) shall not be placed in a secure detention facility or secure correctional facility—

"(I) if such a juvenile is a dependent, abused, or neglected child, or an alien juvenile in custody;

"(II) except that juveniles who are runaways may be placed in a secure detention or secure correctional facility for up to 14 days if, following a hearing not later than 24 hours after such a juvenile is taken into custody, excluding weekends and holidays, the court makes a written finding that—

"(aa) the behavior of the juvenile constitutes a clear and present danger to the physical or emotional well-being of the youth;

"(bb) secure detention is necessary for guarding the safety of the juvenile; and

"(cc) the juvenile's detention is for a period that is not longer than necessary to obtain a suitable placement for the juvenile; and

"(III) except that juveniles not described in subclause (I) or (II) may be placed in a secure detention or secure correctional facility for up to 72 hours, if, following a hearing not later than 24 hours after the juvenile is taken into custody, excluding weekends and holidays, the court makes written findings setting forth—

"(aa) the reasons the court believes secure detention is necessary; and "(bb) the reasons the court believes other sanctions, placement, or interventions are inadequate; and

"(B) juveniles described in this subparagraph are—

"(i) juveniles charged with, or who have committed, an offense that would not be criminal if committed by an adult, excluding—

"(I) juveniles who are charged with, or who have committed, a violation of section 922(x) of title 18, United States Code, or of a similar State law; and

"(II) juveniles who are charged with, or who have committed, a violation of a valid court order; and

"(ii) juveniles—

"(I) who are not charged with any offense; and

"(II) who are—

"(aa) aliens; or

"(bb) alleged to be dependent, neglected, or abused;

"(11) provide assurances that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;

"(12) provide assurances that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

"(13) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

"(14) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

"(15) provide reasonable assurances that Federal funds made available under this part for any period shall be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and shall in no event replace such State, local, and other non-Federal funds;

"(16) provide that the State agency designated under paragraph (1) will, not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, that the agency considers necessary;

"(17) require that the State or each unit of local government that is a recipient of amounts under this part spends those amounts, to the extent feasible, in proportion to the amount of juvenile crime committed within each relevant sector of the relevant geographic region;

"(18) provide assurances that any assistance provided under this act will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any employee who is a current employee at the time that the assistance is provided; and

"(19) require that the State or each unit of local government that is a recipient of amounts under this part require that any person convicted of a sexual act or sexual contact involving any person not having attained the age of 18 be tested for the presence of any sexually transmitted disease and that the results of such test be provided to the victim or to the family of the victim as well as to any court or other government agency with primary authority for sentencing the person convicted for the commission of the sexual act or sexual contact (as those terms are defined in paragraphs (2) and (3), respectively, of section 2246 of title 18, United States Code) involving a person not having attained the age of 18.

The failure to comply with paragraph (19) within a reasonable amount of time after the date of enactment of the Violent and Repeat Juvenile Offender Act of 1997 shall result in the loss of 10 percent of the funds to which the State or each unit of local government that is a recipient of amounts under this part is otherwise entitled.

"(b) APPROVAL BY STATE AGENCY.—

"(1) STATE AGENCY.—The State agency designated under subsection (a)(1) shall approve the State plan and any modification thereof prior to submission of the plan to the Administrator.

"(2) STATE ADVISORY GROUP.—

"(A) ESTABLISHMENT.—The State advisory group referred to in subsection (a) shall be known as the 'State Advisory Group', consisting of representatives from both the private and public sector. The State shall ensure that members of the State Advisory Group shall have experience in the area of juvenile delinquency prevention, the prosecution of juvenile offenders, the treatment of juvenile delinquency, the investigation of juvenile crimes, or the administration of juvenile justice programs. The chairperson of the State Advisory Group shall not be a full-time employee of the Federal Government or the State government.

"(B) CONSULTATION.—

"(i) IN GENERAL.—The State shall consult with the State Advisory Group established under subparagraph (A) in developing and reviewing the State plan under this section.

"(ii) AUTHORITY.—The State Advisory Group shall report to the chief executive officer and the legislature of the State on an annual basis regarding recommendations related to the State's compliance under this section.

"(C) FUNDING.—The State is authorized to make available to the State Advisory Group such sums as may be necessary to assist the State Advisory Group in adequately performing its duties under this paragraph.

"(c) APPROVAL BY ADMINISTRATOR; COMPLIANCE WITH STATUTORY REQUIREMENTS.—

"(1) IN GENERAL.—The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(2) REDUCED ALLOCATIONS.—If a State fails to comply with any requirement of subsection (a)(9) in any fiscal year beginning after January 1, 1998, the State shall be ineligible to receive any allocation under that section for such fiscal year unless—

"(A) the State agrees to expend all the remaining funds the State receives under this part for that fiscal year only to achieve compliance with such paragraph; or

"(B) the Administrator determines, in the discretion of the Administrator, that the State—

"(i) has achieved substantial compliance with such paragraph; and

"(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time.";

(2) by striking parts E and F, and each part designated as part I (including the part redesignated as part I by section 2(i)(1)(A) of Public Law 102-586 and the part added and designated as part I pursuant to section 2(i)(1)(C) of such Act);

(3) by redesignating part G as part E;

(4) in section 241—

(A) in subsection (a), by striking "Juvenile Justice and Delinquency Prevention Office" and inserting "Office of Juvenile Crime Control and Accountability";

(B) in subsection (d)—

(i) in paragraph (1), by striking "and" at the end;

(ii) by redesignating paragraph (2) as paragraph (4);

(iii) in paragraph (4), as redesignated—

(I) by striking "education personnel recreation" and inserting "education personnel, recreation"; and

(II) by striking "park personnel.," and inserting "park personnel,"; and

(iv) by inserting after paragraph (1) the following:

"(2) for the rigorous and independent evaluation of the delinquency and youth violence prevention programs funded under this title;

"(3) funding for research and demonstration projects on the nature, causes, and prevention of juvenile violence and juvenile delinquency; and";

(C) in subsection (e)—

(i) in paragraph (4), by adding "and" at the end;

(ii) in paragraph (5), by striking "; and" and inserting a period; and

(iii) by striking paragraph (6); and

(D) by striking subsection (f) and inserting the following:

"(f) DUTIES OF THE INSTITUTE.—

"(1) IN GENERAL.—The Institute shall make grants and enter into contracts for the purposes of evaluating programs established and funded with State formula grants, research and demonstration projects funded by the National Institute of Juvenile Justice and Delinquency, and discretionary funding of the Office of Juvenile Crime Control and Accountability.

"(2) REQUIREMENTS.—Evaluations and research studies funded by the Institute shall—

"(A) be independent in nature;

"(B) be awarded competitively; and

"(C) employ rigorous and scientifically recognized standards and methodologies, including peer review by nonapplicants.";

(5) in section 243(a)—

(A) in paragraph (1), by striking "seek to strengthen and preserve families or which";

(B) in paragraph (3)—

(i) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(ii) in subparagraph (B), as so designated, by inserting "best practices of" before "information and technical assistance";

(C) in paragraph (4)—

(i) by striking "Encourage" and inserting "encourage"; and

(ii) by striking "take into consideration" and all that follows before the semicolon and inserting the following: "through control and incarceration, if necessary, provide therapeutic intervention such as providing skills";

(D) by striking the second paragraph designated as paragraph (5) (as added by section 2(g)(3) of Public Law 102-586);

(E) by striking paragraphs (6) and (7) and inserting the following:

"(6) prepare, in cooperation with education institutions, with Federal, State, and local agencies, and with appropriate individuals and private agencies, such studies as it considers to be necessary with respect to prevention of and intervention with juvenile violence and delinquency and the improvement of juvenile justice systems, including—

"(A) evaluations of programs and interventions designed to prevent youth violence and juvenile delinquency;

"(B) assessments and evaluations of the methodological approaches to evaluating the effectiveness of interventions and programs designed to prevent youth violence and juvenile delinquency;

"(C) studies of the extent, nature, risk, and protective factors, and causes of youth violence and juvenile delinquency;

"(D) comparisons of youth adjudicated and treated by the juvenile justice system compared to juveniles waived to and adjudicated by the adult criminal justice system (including incarcerated in adult, secure correctional facilities);

"(E) recommendations with respect to effective and ineffective primary, secondary, and tertiary prevention interventions, including for which juveniles, and under what circumstances (including circumstances connected with the staffing of the intervention), prevention efforts are effective and ineffective; and

"(F) assessments of risk prediction systems of juveniles used in making decisions regarding pretrial detention;";

(F) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively;

(G) in paragraph (8), as redesignated, by adding "and" at the end; and

(H) by striking paragraphs (10) through (13) and redesignating paragraph (14) as paragraph (9);

(6) in section 243(b)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2)—

(i) by striking "subsection (a)(9)" and inserting "subsection (a)(8)"; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) regular reports on the record of each State on objective measurements of youth violence, such as the number, rate, and trend of homicides committed by youths.";

(7) by striking sections 244 through 248 and inserting the following:

"SEC. 244. REPORT ON STATUS OFFENDERS.

"The National Institute of Juvenile Justice and Delinquency Prevention shall conduct a study on the effect of incarceration on status offenders compared to similarly situated individuals who are not placed in secure detention in terms of the continuation of their inappropriate or illegal conduct, delinquency, or future criminal behavior, and evaluating the safety of status offenders placed in secure detention. The study shall be completed not later than September 1, 2002. Copies of the report shall be provided to the Chairmen and Ranking Members of the Committees on the Judiciary of the Senate and the House of Representatives.";

(8) by striking the heading for subpart II of part C of title II;

(9) by striking section 261 and redesignating section 262 as section 245;

(10) in section 245, as redesignated—

(A) by striking "this part" each place that term appears and inserting "section 243";

(B) in subsection (b)—

(i) in paragraph (4), by adding "and" at the end; and

(ii) by striking paragraphs (5) through (7) and redesignating paragraph (8) as paragraph (5);

(C) by striking subsection (c) and inserting the following:

"(c) FACTORS FOR CONSIDERATION.—In determining whether or not to approve applications for grants and for contracts under this part, the Administrator shall consider—

"(1) whether the project uses appropriate and rigorous methodology, including appropriate samples, control groups, psychometrically sound measurement, and appropriate data analysis techniques;

"(2) the experience of the principal and co-principal investigators in the area of youth violence and juvenile delinquency;

"(3) the protection offered human subjects in the study, including informed consent procedures; and

"(4) the cost-effectiveness of the proposed project.";

(D) in subsection (d)—

(i) in paragraph (1)(A), by striking "(other than section 241(f))";

(ii) in paragraph (1)(B)—

(I) in clause (i), by striking "; or" and inserting a period;

(II) by striking clause (ii); and

(III) by striking "process—" and all that follows through "with respect to programs" and inserting "process with respect to programs"; and

(iii) in paragraph (2)—

(I) by striking subparagraph (A) and inserting the following:

"(A) Programs selected for assistance through grants and contracts under this part shall be selected after a competitive process that provides potential grantees and contractors with not less than 90 days to submit applications for funds. Applications for funds shall be reviewed through a formal peer review process by qualified scientists with expertise in the fields of criminology, juvenile delinquency, sociology, psychology, research methodology, evaluation research, statistics, and related areas. The peer review process shall conform to the process used by the National Institutes of Health, the National Institute of Justice, or the National Science Foundation"; and

(II) in subparagraph (B), by striking "Committee on Education and Labor" and inserting "Committee on the Judiciary"; and

(11) in section 282—

(A) by inserting the following section heading:

"GRANTS";

(B) in subsection (a)(2), by striking "enforcement" and all that follows through "members" and inserting "the disruption and prosecution of gangs"; and

(C) in subsection (b)—

(i) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(ii) by inserting before paragraph (2), as redesignated, the following:

"(1) the hiring of additional State and local prosecutors, and the establishment and operation of programs, including multijurisdictional task forces, for the disruption and prosecution of gangs and gang members;";

(12) in section 282A, by adding at the end the following:

"(d) PRIORITY.—In approving grants under this part, the Administrator shall give priority to grants for programs conducted pursuant to subsections (a)(2) and (b)(1) of section 282."; and

(13) by redesignating part H as part F.

SEC. 306. GRANTS TO PROSECUTORS.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended by inserting after part F, as redesignated by section 304, the following:

"PART G—GRANTS TO PROSECUTORS AND COURTS FOR STATE JUVENILE JUSTICE SYSTEMS

"SEC. 299. GRANT AUTHORITY.

"(a) IN GENERAL.—The Administrator may make grants in accordance with this part to States and units of local government to assist—

"(1) State and local prosecutors having jurisdiction over juvenile offender cases; and

"(2) State and local courts with juvenile offender dockets.

"(b) GRANT PURPOSES.—Subject to subsection (c), grants under this part may be used—

"(1) to hire additional prosecutors, together with necessary support staff, for the prosecution of crimes and acts of delinquency committed by juveniles and interstate criminal gang activity, such as illegal drug trafficking;

"(2) to provide funding to enable juvenile prosecutors to address drug, gang, and youth violence programs more effectively;

"(3) for technology, equipment, and training for prosecutors to—

"(A) implement an accountability-based juvenile justice system that provides substantial and appropriate sanctions that are graduated in such manner as to reflect (for each delinquent act or criminal offense) the severity or repeated nature of that act or offense; and

"(B) prosecute juvenile violent offenders;

"(4) to hire, for juvenile courts or adult courts with juvenile offender dockets, additional judges, probation officers, other necessary court personnel, victims counselors, and public defenders; and

"(5) to provide funding to enable juvenile courts and juvenile probation officers to address drug, gang, and youth violence problems more effectively.

"(c) RESTRICTION.—Of amounts received by a State or unit of local government under this part, not more than 25 percent may be used for the purposes specified in paragraphs (4) and (5) of subsection (b).

"SEC. 299A. APPLICATION.

"(a) IN GENERAL.—Each State or unit of local government that applies for a grant under this part shall submit an application to the Administrator, in such form and containing such information as the Administrator may by regulation reasonably require.

"(b) REQUIREMENTS.—In submitting an application for a grant under this part, a State or unit of local government shall provide assurances that the State or unit of local government will—

"(1) give priority to the prosecution of violent juvenile offenders;

"(2) seek and impose substantial and appropriate sanctions for the earliest acts of delinquency or for crimes committed by juveniles, in order to deter future violations;

"(3) give adequate consideration to the rights and needs of victims of juvenile offenders; and

"(4) use amounts received under this part to supplement (and not supplant) State and local resources.

"SEC. 299B. ALLOCATION OF GRANTS.

"(a) ALLOCATION OF GRANTS.—

"(1) IN GENERAL.—

"(A) ALLOCATION TO STATES.—

"(i) IN GENERAL.—In awarding grants under this part, the Administrator may award grants provided for a State (including units of local government in that State) an aggregate amount equal to 0.75 percent of the amount made available to the Administrator by appropriations made pursuant to section 206(b)(2) (reduced by amounts reserved under subsection (b)).

"(ii) ADJUSTMENT.—If the Administrator determines that an insufficient number of applications have been submitted for a State, the Administrator may adjust the aggregate amount awarded for a State under clause (i).

"(B) REMAINING AMOUNTS.—Of the adjusted amounts available to the Administrator to carry out the grant program under this section referred to in subparagraph (A) that remain after the Administrator distributes the amounts specified in that subparagraph (referred to in this subparagraph as the 'remaining amount') the Administrator may award an additional aggregate amount to each State (including any political subdivision thereof) that (or with respect to which a political subdivision thereof) submits an application that is approved by the Administrator under this section that bears the same ratio to the remaining amount as the population of juveniles residing in that State bears to the population of juveniles residing in all States.

"(2) EQUITABLE DISTRIBUTION.—The Administrator shall ensure that the distribution of grant amounts made available for a State (including units of local government in that State) under this section is made on an equitable geographic basis, to ensure that—

"(A) an equitable amount of available funds are directed to rural areas, including those jurisdictions serving smaller urban and rural communities located along interstate transportation routes that are adversely affected by interstate criminal gang activity, such as illegal drug trafficking; and

"(B) the amount allocated to a State is equitably divided between the State, counties, and other units of local government to reflect the relative responsibilities of each such unit of local government.

"(b) ADMINISTRATION; TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Administrator may reserve for each fiscal year not more than 2 percent of amounts appropriated pursuant to section 206(b)(2)(B)—

"(A) for the administration of this part; and

"(B) for the provision of technical assistance to recipients of or applicants for grant awards under this part.

"(2) CARRYOVER PROVISION.—Any amounts reserved for any fiscal year pursuant to paragraph (1) that are not expended during that fiscal year shall remain available until expended, except that any amount reserved under this subsection for the succeeding fiscal year from amounts made available by appropriations shall be reduced by an amount equal to the amount that remains available.

"(c) AVAILABILITY OF FUNDS.—Any grant amounts awarded under this part shall remain available until expended.".

SEC. 306. RUNAWAY AND HOMELESS YOUTH.

(a) IN GENERAL.—Section 372(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714b(a)) is amended by striking "unit of general local government" and inserting "unit of local government".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for each of fiscal years 1999, 2000, 2001, and 2002"; and

(B) in paragraph (3), by striking subparagraphs (A) through (D) and inserting the following:

"(A) for fiscal year 1998, not less than $957,285;

"(B) for fiscal year 1999, not less than $1,005,150;

"(C) for fiscal year 2000, not less than $1,055,406;

"(D) for fiscal year 2001, not less than $1,108,177; and

"(E) for fiscal year 2002, not less than $1,163,585.";

(2) in subsection (b), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for each of fiscal years 1999, 2000, 2001, and 2002"; and

(3) in subsection (c), by striking "1993, 1994, 1995, and 1996" and inserting "1998, 1999, 2000, 2001, and 2002".

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) in section 403, by striking paragraph (2) and inserting the following:

"(2) the term 'Administrator' means the Administrator of the Office of Juvenile Crime Control and Accountability.";

(2) in section 404—

(A) by redesignating subsection (c) as subsection (d); and

(B) in subsection (b)—

(i) by striking "The Administrator" and all that follows through "shall—" and insert the following: "The Administrator shall make grants to or enter into contracts with the National Center for Missing and Exploited Children, for purposes of—";

(ii) in paragraph (1)—

(I) in subparagraph (A), by striking "establish and operate" and inserting "providing"; and

(II) in subparagraph (B), by adding "and" at the end;

(iii) in paragraph (2)—

(I) by striking "establish and operate" and inserting "operating";

(II) in subparagraph (A), by inserting "foreign governments," after "State and local governments,"; and

(III) in subparagraph (D)—

(aa) by inserting "foreign governments," after "State and local governments,"; and

(bb) by striking "; and" at the end and inserting a period;

(iv) in paragraph (3), by striking "(3) periodically" and inserting the following:

"(c) National Incidence Studies.—The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

"(1) periodically"; and

(v) in subsection (c), as so designated, by redesignating paragraph (4) as paragraph (2);

(3) in section 405(a), by inserting "the National Center for Missing and Exploited Children and with" before "public agencies"; and

(4) in section 408, by striking "2001" and inserting "2002".

SEC. 308. TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS.

(a) Definitions.—In this section, unless otherwise provided or indicated by the context:

(1) Administrator.—The term "Administrator" means the Administrator of the Office of Juvenile Crime Control and Accountability established by operation of subsection (b).

(2) Administrator of the office.—The term "Administrator of the Office" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

(3) Bureau of justice assistance.—The term "Bureau of Justice Assistance" means the bureau established under section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(4) Federal agency.—The term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code.

(5) Function.—The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(6) Office of juvenile crime control and accountability.—The term "Office of Juvenile Crime Control and Accountability" means the office established by operation of subsection (b).

(7) Office of juvenile justice and delinquency prevention.—The term "Office of Juvenile Justice and Delinquency Prevention" means the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, established by section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974, as in effect on the day before the date of enactment of this Act.

(8) Office.—The term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) Transfer of Functions.—There are transferred to the Office of Juvenile Crime Control and Accountability all functions that the Administrator of the Office exercised before the date of enactment of this Act (including all related functions of any officer or employee of the Office of Juvenile Justice and Delinquency Prevention), and authorized after the date of enactment of this Act, relating to carrying out the Juvenile Justice and Delinquency Prevention Act of 1974.

(c) Transfer and Allocations of Appropriations and Personnel.—

(1) In general.—Except as otherwise provided in this section and in section 101(a) (relating to Juvenile Justice Programs) of the Omnibus Consolidated Appropriations Act, 1997, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appro-

priations, authorizations, allocations, and other amounts employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office of Juvenile Crime Control and Accountability.

(2) Unexpended amounts.—Any unexpended amounts transferred pursuant to this subsection shall be used only for the purposes for which the amounts were originally authorized and appropriated.

(d) Incidental Transfers.—

(1) In general.—The Director of the Office of Management and Budget, at such time or times as the Director of that Office shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section.

(2) Termination of affairs.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(e) Effect on Personnel.—

(1) In general.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) Executive schedule positions.—Except as otherwise provided in this section, any person who, on the day before the date of enactment of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Office of Juvenile Crime Control and Accountability to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(3) Transition rule.—

(A) In general.—The incumbent Administrator of the Office as of the date immediately preceding the date of enactment of this Act shall continue to serve as Administrator after the date of enactment of this Act until such time as the incumbent resigns, is relieved of duty by the President, or an Administrator is appointed by the President, by and with the advice and consent of the Senate.

(B) Nominee.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Senate for its consideration the name of the individual nominated to be appointed as the Administrator.

(f) Savings Provisions.—

(1) Continuing effect of legal documents.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that are in effect at the time this section takes effect, or were final before the date of enactment of this Act and are to become effective on or after the date of enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) Proceedings not affected.—

(A) In general.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Office of Juvenile Justice and Delinquency Prevention on the date on which this section takes effect, with respect to functions transferred by this section but such proceedings and applications shall be continued.

(B) ORDERS; APPEALS; PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(C) DISCONTINUANCE OR MODIFICATION.—Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this paragraph had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the date of enactment of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Office of Juvenile Justice and Delinquency Prevention, or by or against any individual in the official capacity of such individual as an officer of the Office of Juvenile Justice and Delinquency Prevention, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Office of Juvenile Justice and Delinquency Prevention relating to a function transferred under this section may be continued, to the extent authorized by this section, by the Office of Juvenile Crime Control and Accountability with the same effect as if this section had not been enacted.

(g) TRANSITION.—The Administrator may utilize—

(1) the services of such officers, employees, and other personnel of the Office of Juvenile Justice and Delinquency Prevention with respect to functions transferred to the Office of Juvenile Crime Control and Accountability by this section; and

(2) amounts appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(h) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Administrator of the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Administrator of the Office of Juvenile Crime Control and Accountability; and

(2) the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Office of Juvenile Crime Control and Accountability.

(i) TECHNICAL AND CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking "Administrator, Office of Juvenile Justice and Delinquency Prevention" and inserting "Administrator, Office of Juvenile Crime Control and Accountability".

SEC. 309. PILOT PROGRAM TO PROMOTE REPLICATION OF RECENT SUCCESSFUL JUVENILE CRIME REDUCTION STRATEGIES.

(a) PILOT PROGRAM TO PROMOTE REPLICATION OF RECENT SUCCESSFUL JUVENILE CRIME REDUCTION STRATEGIES.—

(1) ESTABLISHMENT.—The Attorney General (or a designee of the Attorney General), in conjunction with the Secretary of the Treasury (or the designee of the Secretary), shall establish a pilot program (in this section referred to as the "program") to encourage and support communities who adopt a comprehensive approach to suppressing and preventing violent juvenile crime patterned after successful State juvenile crime reduction strategies.

(2) PROGRAM.—In carrying out the program, the Attorney General shall—

(A) make and track grants to grant recipients (in this section referred to as "coalitions");

(B) in conjunction with the Secretary of the Treasury, provide for technical assistance and training, data collection, and dissemination of relevant information; and

(C) provide for the general administration of the program.

(3) ADMINISTRATION.—Not later than 30 days after the date of enactment of this Act, the Attorney General shall appoint an Administrator (in this section referred to as the "Administrator") to carry out the program.

(4) PROGRAM AUTHORIZATION.—To be eligible to receive an initial grant or a renewal grant under this section, a coalition shall meet each of the following criteria:

(A) COMPOSITION.—The coalition shall consist of 1 or more representatives of—

(i) the local police department or sheriff's department;

(ii) the local prosecutors' office;

(iii) the United States Attorney's office;

(iv) the Federal Bureau of Investigation;

(v) the Bureau of Alcohol, Tobacco and Firearms;

(vi) State or local probation officers;

(vii) religious affiliated or fraternal organizations involved in crime prevention;

(viii) schools;

(ix) parents or local grass roots organizations such as neighborhood watch groups; and

(x) social service agencies involved in crime prevention.

(B) OTHER PARTICIPANTS.—If possible, in addition to the representatives from the categories listed in subparagraph (A), the coalition shall include—

(i) representatives from the business community; and

(ii) researchers who have studied criminal justice and can offer technical or other assistance.

(C) COORDINATED STRATEGY.—A coalition shall submit to the Attorney General, or the Attorney General's designee, a comprehensive plan for reducing violent juvenile crime. To be eligible for consideration, a plan shall—

(i) ensure close collaboration among all members of the coalition in suppressing and preventing juvenile crime;

(ii) place heavy emphasis on coordinated enforcement initiatives, such as Federal and State programs that coordinate local police departments, prosecutors, and local community leaders to focus on the suppression of violent juvenile crime involving gangs;

(iii) ensure that there is close collaboration between police and probation officers in the supervision of juvenile offenders, such as initiatives that coordinate the efforts of parents, school officials, and police and probation officers to patrol the streets and make home visits to ensure that offenders comply with the terms of their probation;

(iv) ensure that a program is in place to trace all firearms seized from crime scenes or offenders in an effort to identify illegal gun traffickers; and

(v) ensure that effective crime prevention programs are in place, such as programs that provide after-school safe havens and other opportunities for at-risk youth to escape or avoid gang or other criminal activity, and to reduce recidivism.

(D) ACCOUNTABILITY.—A coalition shall—

(i) establish a system to measure and report outcomes consistent with common indicators and evaluation protocols established by the Administrator and which receives the approval of the Administrator; and

(ii) devise a detailed model for measuring and evaluating the success of the plan of the coalition in reducing violent juvenile crime, and provide assurances that the plan will be evaluated on a regular basis to assess progress in reducing violent juvenile crime.

(5) GRANT AMOUNTS.—

(A) IN GENERAL.—The Administrator may grant to an eligible coalition under this paragraph, an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year.

(B) NONSUPPLANTING REQUIREMENT.—A coalition seeking funds shall provide reasonable assurances that funds made available under this program to States or units of local government shall be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for programs described in this section, and shall in no event replace such State, local, or other non-Federal funds.

(C) SUSPENSION OF GRANTS.—If a coalition fails to continue to meet the criteria set forth in this section, the Administrator may suspend the grant, after providing written notice to the grant recipient and an opportunity to appeal.

(D) Renewal grants.—Subject to subparagraph (D), the Administrator may award a renewal grant to grant recipient under this subparagraph for each fiscal year following the fiscal year for which an initial grant is awarded, in an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-king contributions, for that fiscal year, during the 4-year period following the period of the initial grant.

(E) Limitation.—The amount of a grant award under this section may not exceed $300,000 for a fiscal year.

(6) Permitted use of funds.—A coalition receiving funds under this section may expend such Federal funds on any use or program that is contained in the plan submitted to the Administrator.

(7) Congressional consultation.—Two years after the date of implementation of the program established in this section, the General Accounting Office shall submit a report to Congress reviewing the effectiveness of the program in suppressing and reducing violent juvenile crime in the participating communities. The report shall contain an analysis of each community participating in the program, along with information regarding the plan undertaken in the community, and the effectiveness of the plan in reducing violent juvenile crime. The report shall contain recommendations regarding the efficacy of continuing the program.

(b) Information Collection and Dissemination With Respect to Coalitions.—

(1) Coalition information.—For the purpose of audit and examination, the Administrator—

(A) shall have access to any books, documents, papers, and records that are pertinent to any grant or grant renewal request under this section; and

(B) may periodically request information from a coalition to ensure that the coalition meets the applicable criteria.

(2) Reporting.—The Administrator shall, to the maximum extent practicable and in a manner consistent with applicable law, minimize reporting requirements by a coalition and expedite any application for a renewal grant made under this section.

(c) Authorization of Appropriations.—There are authorized to be appropriated from the Violent Crime Reduction Trust Fund to carry out this section, $3,000,000 in each of fiscal years 1998, 1999, and 2000.

SEC. 310. REPEAL OF UNNECESSARY AND DUPLICATIVE PROGRAMS.

(a) Violent Crime Control and Law Enforcement Act of 1994.—

(1) Title III.—Title III of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13741 et seq.) is amended by striking subtitles A through C, and E through S.

(2) Title XXVII.—Title XXVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14191 et seq.) is repealed.

(b) Reform of GREAT Program.—Section 32401(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13921(a)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) Selection of communities.—

"(A) In general.—Each community identified for a GREAT project referred to in paragraph (1) shall be selected by the Secretary of the Treasury on the basis of—

"(i) the level of gang activity and youth violence in the area in which the community is located;

"(ii) the number of schools in the community in which training would be provided under the project;

"(iii) the number of students who would receive the training referred to in clause (ii) in schools referred to in that clause; and

"(iv) a written description from officials of the community explaining the manner in which funds made available to the community under this section would be allocated.

"(B) Equitable selection.—The Secretary of the Treasury shall ensure that—

"(i) communities are identified and selected for GREAT projects under this subsection on an equitable geographic basis (except that this clause shall not be construed to require the termination of any projects selected prior to the beginning of fiscal year 1998); and

"(ii) the communities referred to in clause (i) include rural communities."; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "50 percent" and inserting "85 percent"; and

(B) in subparagraph (B), by striking "50 percent" and inserting "15 percent".

SEC. 311. EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND.

Section 310001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) for fiscal year 2001, $750,000,000; and

"(8) for fiscal year 2002, $750,000,000.".

SEC. 312. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING JUVENILE ALIENS.

(a) IN GENERAL.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended—

(1) in subsection (a), by inserting "or illegal juvenile alien who has been adjudicated delinquent and committed to a juvenile correctional facility by such State or locality" before the period;

(2) in subsection (b), by inserting "(including any juvenile alien who has been adjudicated delinquent and has been committed to a correctional facility)" before "who is in the United States unlawfully"; and

(3) by adding at the end the following:

"(f) JUVENILE ALIEN DEFINED.—In this section, the term 'juvenile alien' means an alien (as that term is defined in section 101(a)(3) of the Immigration and Nationality Act) who has been adjudicated delinquent and committed to a correctional facility by a State or locality as a juvenile offender.".

(b) ANNUAL REPORT.—Section 332 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1366) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) the number of illegal juvenile aliens that are committed to State or local juvenile correctional facilities, including the type of offense committed by each juvenile.".

(c) CONFORMING AMENDMENT.—Section 241(i)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(3)(B)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by adding at the end the following:

"(iv) is a juvenile alien with respect to whom section 501 of the Immigration Reform and Control Act of 1986 applies.".

TITLE IV—BOYS AND GIRLS CLUBS

SEC. 401. 2,500 BOYS AND GIRLS CLUBS BEFORE 2000.

(a) IN GENERAL.—Section 401(a) of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended by striking paragraph (2) and inserting the following:

"(2) PURPOSE.—The purpose of this section is to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to—

"(A) establish 1,000 additional local clubs in locations where local clubs are needed (giving particular emphasis on establishing clubs in public housing projects and distressed areas); and

"(B) ensure that a total of not less than 2,500 Boys and Girls Clubs of America facilities are in operation not later than December 31, 1999.".

(b) ACCELERATED GRANTS.—Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended by striking subsection (c) and inserting the following:

"(c) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) AUTHORITY.—For each of fiscal years 1997, 1998, 1999, 2000, and 2001, the Attorney General, acting through the Director of the Bureau of Justice Assistance of the Department of Justice (referred to in this subsection as the 'Director') shall make a grant to the Boys and Girls Clubs of America for the purpose of establishing and extending Boys and Girls

Clubs facilities in locations where new facilities or expanded facilities are needed.

“(B) EMPHASIS.—In carrying out subparagraph (A), the Director shall give particular emphasis to establishing clubs in and extending services to public housing projects and distressed areas.

“(2) APPLICATIONS.—

“(A) IN GENERAL.—The Attorney General, acting through the Director, shall accept an application for a grant under this subsection submitted by the Boys and Girls Clubs of America.

“(B) APPROVAL.—Not later than 90 days after an application is submitted under subparagraph (A), the Attorney General, acting through the Director, shall approve or deny the application. The Attorney General may approve the application only if the application—

“(i) includes—

“(I) a long-term strategy to establish 1,000 additional Boys and Girls Clubs; and

“(II) a detailed summary of those geographic areas in which new facilities will be established, or in which existing facilities will be expanded to serve additional youths, during the fiscal year following the date of the application;

“(ii) includes a plan to ensure that a total of not less than 2,500 Boys and Girls Clubs of America facilities are in operation before January 1, 2000;

“(iii) certifies that the Boys and Girls Clubs of America will ensure appropriate coordination between the communities in which the Boys and Girls Clubs referred to in clause (ii) and the Boys and Girls Clubs of America will be located; and

“(iv) explains the manner in which new facilities will operate without the provision of additional, direct Federal financial assistance to the Boys and Girls Clubs after assistance under this subsection is discontinued.”.

(c) ROLE MODEL GRANTS.—Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended by adding at the end the following:

“(f) ROLE MODEL GRANTS.—Of amounts made available under subsection (e) for any fiscal year—

“(1) not more than 5 percent may be used to provide a grant to the Boys and Girls Clubs of America for administrative, travel, and other costs associated with a national role-model speaking tour program; and

“(2) no amount may be used to compensate speakers other than to reimburse speakers for reasonable travel and accommodation costs associated with the program described in paragraph (1).

“(g) FLAGSHIP BOYS AND GIRLS CLUBS.—

“(1) IN GENERAL.—The Attorney General, acting through the Director of the Bureau of Justice Assistance (referred to in this section as the ‘Director’), shall, upon receipt of an application that meets the requirements of paragraph (2) from an appropriate official of the Boys and Girls Clubs of America, make a grant to the Boys and Girls Clubs of America to fund the establishment of not less than 3 flagship Boys and Girls Clubs.

“(2) APPLICATION.—

“(A) IN GENERAL.—In order to receive a grant under this subsection, the appropriate official of the Boys and Girls Clubs of America shall submit an application to the Director in such form, and containing such information, as the Director may reasonably require.

“(B) CONTENTS OF APPLICATION.—The application submitted pursuant to subparagraph (A) shall contain assurances that—

“(i)(I) the flagship clubs established under this subsection (referred to in this subsection as the ‘flagship clubs’) shall be located in economically distressed areas; and

“(II) with respect to the location of the flagship clubs, at least—

“(aa) 1 shall be in a rural area; and

“(bb) 1 shall be in an urban area;

“(ii) site selection for the flagship clubs shall be made on an equitable geographic basis;

“(iii) funds received pursuant to this subsection by the Boys and Girls Clubs of America shall comprise not more than 60 percent of the costs of establishing the flagship clubs; and

“(iv) specify how the flagship clubs will operate without Federal funds after the flagship clubs are brought into operation.

"(3) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated $15,000,000 for fiscal year 1998 to carry out this subsection.

"(B) SOURCE OF SUMS.—Sums authorized to be appropriated under subparagraph (A) may be derived from the Violent Crime Reduction Trust Fund.".

TITLE V—MISCELLANEOUS

Subtitle A—General Provisions

SEC. 501. DEFINITION OF UNIT OF LOCAL GOVERNMENT.

Section 901(3) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(3)) is amended to read as follows:

"(3) 'unit of local government' means—

"(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

"(B) any law enforcement district or judicial enforcement district that—

"(i) is established under applicable State law; and

"(ii) has the authority to, in a manner independent of other State entities, establish a budget and impose taxes;

"(C) an Indian tribe which performs law enforcement functions, as determined by the Secretary of the Interior; or

"(D) for the purposes of assistance eligibility, any agency of the government of the District of Columbia or the Federal Government that performs law enforcement functions in and for—

"(i) the District of Columbia; or

"(ii) any Trust Territory of the United States;".

SEC. 502. CARJACKING OFFENSES.

Section 2119 of title 18, United States Code, is amended by striking ", with the intent to cause death or serious bodily harm".

SEC. 503. FIREARMS SAFETY.

(a) SECURE GUN STORAGE OR SAFETY DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating or removing the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 504. FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 1, 1997; or

(2) the date of enactment of this Act.

SEC. 505. INCREASED PENALTY FOR FIREARMS CONSPIRACY.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(p) Except as otherwise provided in this section, a person who conspires to commit an offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which is the object of the conspiracy.".

SEC. 506. FELONY TREATMENT FOR OFFENSES TANTAMOUNT TO AIDING AND ABETTING UNLAWFUL PURCHASES.

Section 924(a)(3) of title 18, United States Code, is amended by striking the period and inserting ", but if the violation is in relation to an offense—

"(A) under paragraph (1) or (3) of section 922(b), shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) under subsection (a)(6) or (d) of section 922, shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 507. INCREASED PENALTY FOR KNOWINGLY RECEIVING FIREARMS WITH OBLITERATED SERIAL NUMBER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by striking "(k),"; and

(2) in paragraph (2), by inserting "(k)," after "(j),".

SEC. 508. AMENDMENT OF THE SENTENCING GUIDELINES FOR TRANSFERS OF FIREARMS TO PROHIBITED PERSONS.

(a) SENTENCING ENHANCEMENT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to increase the base offense level for offenses subject to section 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition) to assure that a person who transferred a firearm and who knew that the transferee was a prohibited person is subject to the same base offense level as the transferee. This provision shall not require the same offense level for the transferor and transferee to the extent that the transferee's base offense level is subject to an additional increase on the basis of a past criminal conviction of either a crime of violence or a controlled substance offense.

(b) CONSISTENCY.—In carrying out subsection (a), the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal Sentencing Guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

SEC. 509. CRIMINAL FORFEITURE OF FIREARMS USED IN CRIMES OF VIOLENCE AND FELONIES.

(a) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended—

(1) by inserting after paragraph (3) the following:

"(4) The court, in imposing a sentence on a person convicted of any crime of violence (as that term is defined in section 16) or any felony under federal law, shall order that the person forfeit to the United States any firearm (as that term is defined in section 921(a)(3)) used or intended to be used to commit or to facilitate the commission of the offense."; and

(2) by redesignating paragraphs (4) and (5), and the first and second paragraphs designated as paragraph (6), as paragraphs (5), (6), (7), and (8), respectively.

(b) DISPOSAL OF FORFEITED PROPERTY.—Section 981(c) of title 18, United States Code, is amended by adding at the end the following: "Any firearm forfeited pursuant to subsection (a)(1)(D) or section 982(a)(3) of this title shall be disposed of by the seizing agency in accordance with law.".

SEC. 510. CRIMINAL FORFEITURE FOR GUN TRAFFICKING.

Section 982(a) of title 18, United States Code, as amended by section 509 of this Act, is amended by adding at the end the following:

"(9)(A) The court, in imposing a sentence on a person convicted of a gun trafficking offense described in subparagraph (B), or a conspiracy to commit such offense, shall order the person to forfeit to the United States any conveyance used or intended to be used to commit such offense, and any property traceable to such conveyance.

"(B) A gun trafficking offense is described in this subparagraph if it—

"(i) is a violation of—

"(I) section 922(i) (transporting stolen firearms);

"(II) section 924(g) (travel with a firearm in furtherance of racketeering);

"(III) section 924(k) (stealing a firearm); or

"(IV) section 924(m) (interstate travel to promote firearms trafficking); and

"(ii) involves 5 or more firearms.".

SEC. 511. USING PRISON INMATE LABOR AND OTHER LABOR FOR DATA PROCESSING OF PERSONAL INFORMATION ABOUT CHILDREN.

(a) IN GENERAL.—Chapter 89 of title 18, United States Code, is amended by adding at the end the following:

"§ 1822. Using prison inmate labor and other labor for data processing of personal information

"(a) PROHIBITION.—Whoever, in or affecting interstate or foreign commerce, knowingly uses prison inmate labor, or any worker who is registered pursuant to title XVII of the Violent Crime Control and Law Enforcement Act of 1994, for data processing of personal information shall be fined under this title, imprisoned not more than 1 year, or both.

"(b) DEFINITION OF PERSONAL INFORMATION.—In this section, the term 'personal information' means information (including name, address, telephone number, social security number, and physical description) about an individual, that would suffice to physically locate and contact that individual.".

"§ 1823. Using or distributing certain personal information that would harm children

"(a) PROHIBITION.—Whoever, in or affecting interstate or foreign commerce, knowingly uses or distributes personal information about 1 or more children with the intent that the information will be used to abuse or to harm physically any child, shall be fined under this title, imprisoned not more than 1 year, or both.

"(b) DEFINITIONS.—In this section—

"(1) the term 'child' means an individual who has not attained the age of 16 years; and

"(2) the term 'personal information' means information (including name, address, telephone number, social security number, and physical description) about an individual, that would suffice to physically locate and contact that individual.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 89 of title 18, United States Code, is amended by adding at the end the following:

"1822. Using prison inmate labor and other labor for data processing of personal information.
"1823. Using or distributing certain personal information that would harm children.".

SEC. 512. TRUTH-IN-SENTENCING INCENTIVE GRANTS.

Section 20106 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706) is amended by striking subsection (b) and inserting the following:

"(b) FORMULA ALLOCATION.—The amount made available to carry out this section for any fiscal year under section 20104 shall be allocated as follows:

"(1) 0.75 percent shall be allocated to each State that meets the requirements of section 20104, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.05 percent.

"(2) The amount remaining after the application of paragraph (1) shall be allocated to each State that meets the requirements of section 20104 in the ratio that the average annual number of part 1 violent crimes reported by that State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made bears to the average annual number of part 1 violent crimes reported by States that meet the requirements of section 20104 to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, except that a State may not receive more than 25 percent of the total amount available for those grants.".

SEC. 513. FALSE ADVERTISING OR MISUSE OF NAME TO INDICATE UNITED STATES MARSHALS SERVICE.

Section 709 of title 18, United States Code, is amended by inserting after the thirteenth undesignated paragraph the following:

"Whoever, except with the written permission of the Director of the United States Marshals Service, knowingly uses the words 'United States Marshals Service', 'U.S. Marshals Service', 'United States Marshal', 'U.S. Marshal', or 'U.S.M.S.', or any colorable imitation of any such words, or the likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service;".

SEC. 514. EXTENSION OF AUTHORITY.

Section 233(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1245) is amended by striking "1 year after the date of enactment of this Act" and inserting "on October 1, 1999".

SEC. 515. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE AFTERCARE SERVICES.

Section 1901 of part S of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–1) is amended by adding at the end the following:

"(f) Use of Grant Amounts for Nonresidential Aftercare Services.—A State may use amounts received under this part to provide nonresidential substance abuse treatment aftercare services for inmates or former inmates that meet the requirements of subsection (c), if the chief executive officer of the State certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services.".

SEC. 516. ESTABLISHMENT OF FELONY VIOLATIONS.

Section 228 of title 18, United States Code, is amended to read as follows:

"§ 228. Failure to pay legal child support obligations

"(a) Offense.—Whoever—

"(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000;

"(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000; or

"(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than $10,000;

shall be punished as provided in subsection (c).

"(b) Presumption.—The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

"(c) Punishment.—The punishment for an offense under this section is—

"(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in the case of an offense under subsection (a)(2) or (a)(3), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

"(d) Mandatory Restitution.—Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

"(e) Definitions.—In this section—

"(1) the term 'support obligation' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(2) the term 'State' includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

SEC. 517. HATE CRIMES STATISTICS ACT.

Subsection (b) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by adding at the end the following:

"(6) In acquiring data under this section, the Attorney General shall, beginning for calendar year 1998, include data regarding the age of offenders who have committed crimes covered by this section.".

SEC. 518. ELIMINATION OF THE STATUTE OF LIMITATIONS FOR MURDER AND CLASS A OFFENSES.

(a) Capital Offenses and Class A Felonies Involving Murder.—

(1) In general.—Section 3281 of title 18, United States Code, is amended to read as follows:

"§ 3281. Capital offenses and Class A felonies involving murder

"(a) Capital Offenses.—An indictment for any offense punishable by death may be found at any time without limitation.

"(b) Class A Felonies Involving Murder.—

"(1) IN GENERAL.—An indictment or information for any Class A felony involving murder may be found at any time without limitation.

"(2) DEFINITION OF MURDER.—In this subsection, the term 'murder'—

"(A) has the meaning given the term in section 1111 of this title; and

"(B) in the case of an offense under section 1963(a) of this title involving racketeering activity described in section 1961(1) of this title, has the meaning given that term under applicable State law.".

(2) APPLICABILITY.—The amendment made by this subsection applies to any offense for which the applicable statute of limitations has not run as of the date of enactment of this Act.

(b) CLASS A VIOLENT AND DRUG TRAFFICKING OFFENSES.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3296. Class A violent and drug trafficking offenses

"Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or that is a drug trafficking crime (as that term is defined in section 924(c)) unless the indictment is returned or the information is filed not later than 10 years after the date on which the offense is committed.".

(2) APPLICABILITY.—The amendment made by this subsection applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

(c) CONFORMING AMENDMENTS.—The analysis for chapter 213 of title 18, United States Code, is amended—

(1) by striking the item relating to section 3281 and inserting the following:

"3281. Capital offenses and class A felonies involving murder.", and

(2) by adding at the end the following:

"3296. Class A violent and drug trafficking offenses."

SEC. 519. PRIORITY.

Section 517 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3763) is amended by adding at the end the following:

"(c) PRIORITY.—In awarding discretionary grants under section 511 to public agencies to undertake law enforcement initiatives relating to gangs, or relating to juveniles who are involved or at risk of involvement in gangs, the Director shall give priority to a public agency that includes in its application a description of strategies or programs of that public agency (either in effect or proposed) that provide cooperation between Federal, State, and local law enforcement authorities, through the use of firearms and ballistics identification systems, to disrupt illegal sale or transfer of firearms to or between juveniles through tracing the sources of guns used in crime that were provided to juveniles.".

SEC. 520. INCREASED PENALTIES FOR DISTRIBUTING DRUGS TO MINORS.

Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a), by striking "one year" and inserting "3 years"; and

(2) in subsection (b), by striking "one year" and inserting "5 years".

SEC. 521. INCREASED PENALTY FOR DRUG TRAFFICKING IN OR NEAR A SCHOOL OR OTHER PROTECTED LOCATION.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a), by striking "one year" and inserting "3 years"; and

(2) in subsection (b), by striking "three years" each place that term appears and inserting "5 years".

SEC. 522. INCREASED PENALTIES FOR USING MINORS TO DISTRIBUTE DRUGS.

Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b), by striking "one year" and inserting "3 years"; and

(2) in subsection (c), by striking "one year" and inserting "5 years".

SEC. 523. PENALTIES FOR USE OF MINORS IN CRIMES OF VIOLENCE.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§ 25. Use of minors in crimes of violence

"(a) PENALTIES.—Except as otherwise provided by law, whoever, being not less than 18 years of age, knowingly and intentionally uses a minor to commit a crime of violence, or to assist in avoiding detection or apprehension for a crime of violence, shall—

"(1) be subject to 2 times the maximum imprisonment and 2 times the maximum fine for the crime of violence; and

"(2) for second or subsequent convictions under this subsection, be subject to 3 times the maximum imprisonment and 3 times the maximum fine otherwise provided for the crime of violence in which the minor is used.

"(b) Definitions.—In this section:

"(1) Crime of violence.—The term 'crime of violence' has the meaning given the term in section 16 of this title.

"(2) Minor.—The term 'minor' means a person who is less than 18 years of age.

"(3) Uses.—The term 'uses' means employs, hires, persuades, induces, entices, or coerces.".

(b) Conforming Amendment.—The analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"25. Use of minors in crimes of violence.".

SEC. 524. INCREASED PENALTIES FOR USING FEDERAL PROPERTY TO GROW OR MANUFACTURE CONTROLLED SUBSTANCES.

(a) In General.—Section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended to read as follows:

"(5) Whoever violates subsection (a) of this section by cultivating or manufacturing a controlled substance on any property in whole or in part owned by or leased to the United States or any department or agency thereof shall be subject to twice the maximum punishment otherwise authorized for the offense.".

(b) Federal Sentencing Guidelines.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to ensure that a violation of section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is punished substantially more severely than if the violation had not occurred on Federal property.

SEC. 525. SAFE SCHOOLS.

(a) Amendments.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.) is amended to read as follows:

"PART F—ILLEGAL DRUG AND GUN POSSESSION AND POSSESSION OF TOBACCO PRODUCTS OR ALCOHOLIC BEVERAGES

"SEC. 14601. DRUG-FREE, GUN-FREE, TOBACCO-FREE, AND ALCOHOL-FREE REQUIREMENTS.

"(a) Short Title.—This section may be cited as the 'Safe Schools Act of 1997'.

"(b) Requirements.—

"(1) In general.—Except as provided in paragraph (2), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school—

"(A) for a period of not less than 1 year a student who is determined—

"(i) to be in possession of an illegal drug (in a quantity that indicates an intent to distribute as determined by State law), or illegal drug paraphernalia, on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency in that State; or

"(ii) to have brought a weapon to a school under the jurisdiction of a local educational agency in that State;

"(B) for a period of not more than 6 months and not less than 1 week a student who is determined to be in possession of an illegal drug (in a quantity that does not indicate an intent to distribute as determined by State law), on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency in that State; and

"(C) for a period of not more than 6 months a student who is determined to have, while not having attained the age of 18 and on a regular basis (as determined by the State), used or possessed 1 or more tobacco products or alcoholic beverages on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency in that State.

"(2) Exceptions.—The State law described in paragraph (1)—

"(A) shall not apply to students served under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

"(B) shall allow the chief administering officer of a local educational agency to modify the expulsion requirement for a student on a case-by-case basis or to ensure that the requirement takes into account applicable State law.

"(3) Construction.—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

"(4) Definition of weapon.—In this section, the term 'weapon' has the meaning given the term 'firearm' in section 921(a) of title 18, United States Code.

"(c) Report to State.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

"(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school; and

"(C) the type of illegal drugs, illegal drug paraphernalia, weapons, tobacco products, or alcoholic beverages concerned.

"(d) Reporting.—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.

"(e) Report to Congress.—Two years after the date of enactment of the Safe Schools Act of 1997, the Secretary shall report to Congress with respect to any State that is not in compliance with the requirements of this part.

"SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

"(a) In General.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, such agency, or who brings a firearm or weapon to a school served by such agency.

"(b) Definitions.—In this section, the terms 'firearm' and 'school' have the meanings given those terms in section 921(a) of title 18, United States Code.

"SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.

"The Secretary shall—

"(1) widely disseminate the policy of the Department in effect on the date of enactment of the Safe Schools Act of 1997 with respect to disciplining children with disabilities;

"(2) collect data on the incidence of children with disabilities (as that term is defined in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1))) possessing illegal drugs or illegal drug paraphernalia, or using or possessing, on a regular basis (as determined by the appropriate State), tobacco products, or alcoholic beverages on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency, engaging in life threatening behavior at school, or bringing weapons to schools; and

"(3) submit a report to Congress not later than 1 year after the date of enactment of the Safe Schools Act of 1997 analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

"SEC. 14604. DEFINITIONS.

"In this part:

"(1) Alcoholic beverage.—The term 'alcoholic beverage' includes any beverage in liquid form that contains not less than ½ of 1 percent of alcohol by volume and is intended for human consumption.

"(2) Illegal drug.—

"(A) In general.—The term 'illegal drug' means a controlled substance (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), the possession of which is unlawful under such Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

"(B) Exclusion.—The term 'illegal drug' does not mean a controlled substance used pursuant to a valid prescription or as authorized by law.

"(3) Illegal drug paraphernalia.—The term 'illegal drug paraphernalia' means drug paraphernalia (as that term is defined in section 422 of the Controlled Substances Act (21 U.S.C. 863)), except that the first sentence of section 422(d) of such Act shall be applied by inserting 'or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)' before the period.

"(4) TOBACCO PRODUCT.—The term 'tobacco product' means—

"(A) cigarettes and little cigars (as those terms are defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332));

"(B) cigars (as that term is defined in section 5702 of the Internal Revenue Code of 1986);

"(C) pipe tobacco and loose rolling tobacco;

"(D) smokeless tobacco (as that term is defined in section 9 of the Comprehensive Smokeless Tobacco and Health Education Act of 1986 (15 U.S.C. 4408)); and

"(E) any other form of tobacco intended for human consumption.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 6 months after the date of enactment of this Act.

SEC. 526. APPLICABILITY TO DANGEROUS WEAPONS.

(a) WEAPONS COVERED.—Part F of title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8921 et seq.), as amended by section 525 of this Act, is amended—

(1) in section 14601—

(A) in subsection (b)—

(i) in paragraph (1)(A)(ii), by striking "weapon" and inserting "dangerous weapon"; and

(ii) by striking paragraph (4); and

(B) in subsection (c)(2)(C), by striking "weapons" and inserting "dangerous weapons";

(2) in section 14602—

(A) in subsection (a), by striking "firearm or weapon" and inserting "dangerous weapon"; and

(B) by striking subsection (b) and inserting the following:

"(b) DEFINITION OF SCHOOL.—In this section, the term 'school' has the meaning given that term in section 921(a) of title 18, United States Code."; and

(3) in section 14604, by adding at the end the following:

"(5) DANGEROUS WEAPON.—The term 'dangerous weapon' has the meaning given that term in section 930 of title 18, United States Code, provided such term as used in this part does not include any dangerous weapon possessed as a part of a course or curriculum approved pursuant to State or local laws.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the date of enactment of this Act.

Subtitle B—Child Exploitation Sentencing Enhancement

SEC. 531. SHORT TITLE.

This subtitle may be cited as the "Child Exploitation Sentencing Enhancement Act of 1997".

SEC. 532. DEFINITIONS.

In this subtitle:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this subtitle.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

SEC. 533. INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines for—

(A) aggravated sexual abuse under section 2241 of title 18, United States Code;

(B) sexual abuse under section 2242 of title 18, United States Code;

(C) sexual abuse of a minor or ward under section 2243 of title 18, United States Code;

(D) coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code; and

(E) transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

SEC. 534. INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

SEC. 535. INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to increase penalties applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

SEC. 536. REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.

(a) Repeat Offenders.—

(1) Chapter 117.—

(A) In general.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) In General.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter or chapter 109A or 110.

"(b) Punishment.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(B) Conforming amendment.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(2) Chapter 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(b) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(2) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "five" and inserting "10"; and

(B) in subsection (b), by striking "10" and inserting "15".

(3) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "ten" and inserting "15"; and

(B) in subsection (b), by striking "10" and inserting "15".

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines relating to chapter 117 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal Sentencing Guidelines as are necessary to provide for the amendments made by this section.

SEC. 537. CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal Sentencing Guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

SEC. 538. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

In carrying out this subtitle, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal Sentencing Guidelines subject to this subtitle, ensure reasonable consistency with other guidelines of the Federal Sentencing Guidelines; and

(2) with respect to an offense subject to the Federal Sentencing Guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

SEC. 539. AUTHORIZATION FOR GUARDIANS AD LITEM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in subsection (b), such sums as may be necessary for each of fiscal years 1998 through 2001.

(b) PURPOSE.—The purpose specified in this subsection is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

SEC. 540. APPLICABILITY.

This subtitle and the amendments made by this subtitle shall apply to any action that commences on or after the date of enactment of this Act.

I. PURPOSE

The purpose of S. 10, the Violent and Repeat Juvenile Offender Act, is to reform the role played by the Federal Government in addressing juvenile crime and delinquency in our Nation. The reform encompassed by this legislation is long overdue. Nearly a quarter century has passed since Congress enacted the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA).

Yet, despite periodic reauthorizations and amendments to the JJDPA in succeeding years, no fundamental reassessment of the Federal role or the policies encouraged through the application of Federal resources has taken place. Congressional neglect of this issue has persisted despite profound societal changes that have occurred in the years since the JJDPA was enacted.

These societal changes include the breakdown of the nuclear family, an explosion in the number of single parent households, the prevalence of two wage-earners in two-parent households, and the pervasiveness of coarse and destructive sexual and violent material available in popular culture. The changes in society have been reflected in the changed nature of juvenile crime and delinquency.

When Congress enacted the JJDPA, the commission by juveniles of serious violent crimes such as homicide, rape, and robbery, was a relatively unknown phenomenon. The rate at which juveniles commit such crimes, however, has increased dramatically since that time. In 1994, the number of persons arrested overall for murder in the United States decreased by 5.8 percent, but the number of persons younger than 15 years of age arrested for murder increased by 4 percent. The number of persons arrested for all violent crimes increased by 1.3 percent, while the number of persons younger than 15 years of age arrested for violent crimes increased by 9.2 percent, and the number of persons younger than 18 years of age arrested for such crimes increased by 6.5 percent. From 1985 to 1996, the number of persons arrested for all violent crimes increased by 52.3 percent, while the number of persons under age 18 arrested for violent crimes rose by 75 percent.

These trends are alarming, especially in light of projected demographic trends. The number of juvenile offenders is expected to undergo a massive increase during the first two decades of the 21st century, culminating in an unprecedented number of violent offenders who are younger than 18 years of age.

The current approach of the Federal Government in addressing juvenile crime is inadequate in a number of important areas, including the accountability of juvenile offenders, the maintenance and appropriate use of records of juvenile offenses, and the promotion and evaluation of effective and timely prevention and intervention programs designed to avert serious juvenile crime. It is the purpose of this legislation to reform law and Federal policy to address adequately the shortcomings of current Federal policy.

The Committee has three key goals in recommending this legislation. First and foremost is encouraging policies to ensure accountability for juvenile crime. The Committee wishes to require that young people be held accountable for their criminal or delinquent acts from the start, and intends that accountability stand as a central feature of the Federal juvenile justice system in prosecuting violations of Federal law. The Committee believes that this Nation can no longer afford to wait until a youngster is 15 or 16 years old, or has committed half a dozen or more crimes, before he or she is held accountable for his or her actions. Rather, the Committee believes that better results will be attained, and the commission of more serious crimes by juveniles might be averted, if State, local and Federal governments impose meaningful sanctions for the earliest acts of juvenile crime and delinquency.

Second, the Committee wishes to ensure that the most serious juvenile criminals—those young people who commit adult crimes, such as murder and rape—are punished as adults. No one wants to have to sentence a juvenile to a lengthy prison term. But, if a juvenile has committed a crime as heinous as that committed by the worst adult criminal, the Committee believes that the protection of society requires the imposition of such sanctions.

The Committee also believes that the Federal, State, and the local governments together must ensure that the records of crimes and delinquent acts are maintained and appropriately made available for the protection of society. Records of criminal or delinquent acts committed by juveniles should not be destroyed simply because the offender reaches adulthood. Members of society have a right to know who among them are repeat and violent offenders.

Third, it is the Committee's goal to reform Federal aid to State and local youth crime programs by modifying Federal mandates that, in many instances, have stifled innovative State efforts to address violent youth crime. The Committee also wishes to provide additional Federal resources to the States and local governments to improve programs for the prosecution, incarceration, and treatment of juvenile criminals, for innovative and effective prevention efforts, and for the maintenance, improvement, and distribution of juvenile criminal records, while at the same time streamlining and coordinating diverse Federal efforts.

Consistent with the Committee's goals, the legislation it recommends has three essential components. The first component is the reform of procedures for handling the very few cases each year in which a juvenile is prosecuted for a Federal crime in Federal court. While the number of Federal prosecutions of juveniles each year is tiny in comparison to the gravity of the national problem, we must ensure that these cases are handled appropriately. The Committee also expects that U.S. Attorneys will assist State and local law enforcement by increasing in appropriate cases the number of juvenile prosecutions that are brought by the Federal Government. The legislation that the Committee recommends provides local U.S. Attorneys with discretion to decide whether to prosecute as adults juveniles who commit Federal serious violent or serious drug crimes, and gives the Attorney General discretion to order Federal prosecution as adults of juveniles who commit other Federal felonies. The bill recommended by the Committee will ensure that juveniles who are tried and convicted of Federal crimes as adults serve their full sentences and pay restitution to their victims on the same basis as adult offenders. This legislation will ensure that Federal juvenile criminal records are available to law enforcement, courts, and schools. The legislation also will ensure no Federal juvenile offender is celled with an adult offender.

The second component of the Committee recommendation addresses the increasing national problem of interstate gangs, which frequently recruit juveniles. This component of the bill recommended by the Committee is directed at this menace. It beefs up the Federal anti-gang statute, by permitting Federal prosecution of gang criminals who commit two or more gang-related crimes, such as drug dealing, witness intimidation, extortion, drug money laundering, and drive-by shootings. Convictions will result in a 10-year mandatory minimum penalty and the criminal forfeiture of gang-related assets. The bill also addresses the interstate recruitment of gang members and criminalizes the recruitment of anyone, and especially minors, into criminal gangs.

The third component of the Committee recommendation reauthorizes, reforms and streamlines the JJDPA. This component is premised on the idea that Washington does not always know best, and that Federal assistance should empower States to experiment and make progressive reforms that both get tough on the worst juvenile criminals and deter other young people from getting involved in crime, gangs and drugs. The Committee recommendation maintains, with some modifications, the current State formula grant program, known as part B, for juvenile justice programs. The changes to this program recommended by the Committee place a greater emphasis on accountability-based juvenile justice programs and modify several mandates in current law. For example, the Committee recommends modification of the Federal requirement that States not incarcerate juveniles for status offenses, such as curfew violations. The Committee also believes that the Federal Government should not require the States to ensure that minority youths are only incarcerated in proportion to their representation in the population at large. Rather, the Committee believes that crime control and prevention policies should be race-neutral, and that such efforts should be targeted at those neighborhoods in which the most crime occurs. One condition that the Committee firmly believes must remain a condition on the receipt of Federal assistance to State and local juvenile justice systems, however, is that no juvenile should ever be put in the same cell as an adult prisoner.

The bill that the Committee recommends creates an incentive block grant program for the States to continue enactment of progressive reforms, such as accountability-based juvenile justice systems. These block grants may be used for a multitude of purposes, such as incarceration, graduated sanctions, serious and habitual offender programs, and juvenile criminal record sharing. To qualify for the grants, however, the Committee recommends that States do the following:

(1) treat serious violent juvenile criminals as adults;

(2) make the criminal records of these juveniles available to law enforcement, courts, and schools;

(3) perform drug tests on an appropriate category of juvenile offenders;

(4) use local advisory groups; and

(5) permit religious organizations to participate in grant programs on the same basis as any other private group.

Finally, the Committee recommendation streamlines Federal efforts to stop youth violence by making the renamed Office of Juvenile Crime Control and Accountability (currently, the Office of Juvenile Justice and Delinquency Prevention) in the Department of Justice responsible for coordinating all Federal programs targeted at juvenile crime. The Office will have the authority to coordinate budgets for all of these programs and will be required to provide Congress with a Federal plan to combat juvenile crime. The Committee finds quite important the need for evaluation of juvenile anticrime programs, in order to help ensure that future Congresses have available more complete information on which programs are effective at preventing and controlling juvenile crime and delinquency.

The Committee recommendation does not reflect a "Washington-knows-best" philosophy. Nor is it a total repudiation of all that has come before. S. 10, as recommended by the Committee, however, does recognize the changes that have occurred in juvenile justice in the last decade.

The Committee believes that the 1974 JJDPA has largely achieved its purpose in improving the conditions of detention and incarceration of juveniles. Moreover, the Committee has confidence in the States' abilities to utilize sound juvenile correctional policies. Thus, in the Committee's view, it is time to change the focus of the JJDPA, to reflect these successes and provide assistance and encouragement to the States in other areas of juvenile justice policy, including accountability based sanctions, improvement of criminal history records, and drug testing to assess and reduce the use of illegal drugs as a factor in juvenile crime.

The Committee does not believe that anything in S. 10 should be viewed as an indictment of State and local efforts in combating serious and violent juvenile crime. Indeed, the States for several years have been far ahead of the Federal Government in implementing innovative reforms of their juvenile justice systems. For example, between 1992 and 1996, of the 50 States and the District of Columbia, 48 made substantive changes to their juvenile justice systems.[1]

Among the trends in State law changes are the removal of more serious and violent offenders from the juvenile justice system, in favor of criminal court prosecution; new and innovative disposition/sentencing options for juveniles; and the revision, in favor of openness, of traditional confidentiality provisions relating to juvenile proceedings and records.[2] As the OJJDP noted in July, 1996,

> These trends represent both a reaction to the increasingly serious nature of juvenile crime and a fundamental shift in juvenile justice philosophy. * * * Inherent in many of the changes is the belief that serious and violent juvenile offenders must be held more accountable for their actions. * * * Toward that end, dispositions are to be offense based rather than offender based, with the goal of punishment as opposed to rehabilitation.

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[1] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, "State Responses to Serious and Violent Juvenile Crime," July 1996 (hereinafter, "State Responses,"), at xv.

[2] Id. at xi.

> The trend toward redefining the purpose of the juvenile justice system represents a fundamental philosophical departure, particularly in the handling of serious and violent juvenile offenders. This change has resulted in dramatic shifts in the areas of jurisdiction, sentencing, correctional programming, confidentiality, and victims of crime.[3]

While the States have been making fundamental changes in their approaches to juvenile justice, however, the Federal Government has made no significant change to its approach and has done little to encourage State and local reform.[4] Thus, the juvenile justice terrain has shifted beneath the Federal Government, leaving its programs an policies out of step and in major part irrelevant to the needs of State and local governments. It is the Committee's intent in recommending enactment of S. 10 to correct this imbalance between State and Federal juvenile justice policy, and ensure that Federal programs support the needs of State and local governments.

II. DISCUSSION

A. THE NATURE OF THE JUVENILE CRIME PROBLEM

Towards the end of the 19th century, States began to establish juvenile justice systems. This shift was animated by the belief that juveniles were not as culpable as adults for their actions and by the hope that, in treating juveniles separately and with an eye toward rehabilitation, rather than punishment, juvenile offenders would be reformed and thereby would avoid committing more and more serious crimes. At that time, juveniles committed fewer and less violent crimes than they commit today. Unfortunately, the background and social context against which the Committee has assessed reform of the Federal role in the juvenile justice system has changed considerably—and for the worse—since the first State juvenile justice systems were created.[5]

During the last quarter of this century, offenders have committed crimes at an alarming rate. "A murder is reported to the police every 21 minutes, a forcible rape every 5 minutes, a robbery every 48 seconds and an aggravated (serious) assault every 28 seconds. A motor vehicle theft is reported to the police every 20 seconds, a burglary every 11 seconds and a larceny-theft every 4 seconds."[6] "Over a lifetime, the average man in our society has an 89-percent probability of being a victim of an attempted crime of violence and the average woman has a 73-percent probability, although half of the attempts are not completed."[7] Many such offenses are now also being committed by juveniles.

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[3] Id.

[4] For instance, the major Federal enactment relating to crime during this period, the Violent Crime Control and Law Enforcement Act of 1994 (Public Law No. 103-322, 108 Stat. 1796 (Sept. 13, 1994)), made only modest changes to the Federal juvenile code and, although it included authorization for numerous programs intended to prevent crime, few (if any) of these programs could be described as supporting the types of reforms being enacted by the States.

[5] As noted in section I of this report, the States have been aggressively responding to the changed nature of juvenile crime with new and innovative policies.

[6] Morgan O. Reynolds, National Center for Policy Analysis, "Crime and Punishment in America," Policy Report No. 193, at 1 (June 1995).

[7] Id.

The past decade has witnessed a dramatic increase in both the number and seriousness of the crimes committed by juveniles. Juveniles today commit murder, rape, robbery, and drug trafficking offenses at a rate unimagined when the juvenile justice system was adopted. There was a 50-percent increase in the rate of juvenile arrests for violent crimes between 1988 and 1994. Juvenile courts handled 98 percent more cases in 1994 than in 1985 involving offenses included in the Federal Bureau of Investigations Violent Crime Index: homicide, rape, robbery, and aggravated assault. During that period, homicide cases increased 144 percent, aggravated assault cases grew 134 percent, robbery cases were up 53 percent, and cases of forcible rape climbed 25 percent. From 1985 to 1994, the percentage increase in arrests has been greater for juveniles than adults. Thirty-five percent of all 1994 juvenile arrests involved people under age 15.

Presently, juveniles commit homicides at a rate never before seen or imagined. For example, the number of juveniles committing homicide increased nearly threefold from 1984 to 1994, with more than 2,800 juveniles committing homicide in 1994. The number of 12- to 14-year-old homicide offenders rose 174 percent from 1984–94. From 1980 through 1994 there have been more than 26,000 known juvenile homicide offenders. From 1980 through 1994, juveniles killed 27,000 people. More than 2,300 people were killed by juveniles in 1994 alone, which was more than 2.5 times the number in 1984.[8]

Juveniles commit other serious crimes. From 1985 to 1994, 50 percent of the increase in robberies is attributable to juveniles. Nearly one-third of all persons arrested in 1994 for robbery were below the age of 18. Juveniles accounted for 55 percent of all arrests in arson-related case and 36 percent of burglaries. In the decade preceding 1994, juveniles were responsible for 48 percent of the increase in forcible rapes.[9]

There also has been a considerable increase in juvenile criminal gang activity. For example, the Los Angeles District Attorney's Office estimated that in May 1992 there were 1,000 gangs with 150,000 members in Los Angeles County; that, in 1992, gangs had been responsible for virtually all of the growth in the number of homicides since 1984; and that half of all gang members participate in violence. Between 1982 and 1992, the number of gang-related homicides in the Los Angeles County handled by the L.A.P.D. and the County Sheriff's Department rose from 158 to 618. According to the FBI, killings by juvenile gang members increased 500 percent between 1980 and 1994, making this one of the fastest-growing crimes in the United States." [10]

Other cities have suffered from the same growth in gang activity. Consider Chicago. According to the Chicago Police Department Detective Division, street gangs committed a great number of violent crimes in 1994 and 1995. In 1994, 293 of the 930 murders (32 percent) were attributed to street gangs, and, in 1995, 212 of the 827 murders (26 percent) were attributed to street gangs. The percentage of juveniles committing murder also was on the rise. The proportion of murders committed by minors rose from 9 percent in 1985 to 28 percent in 1994. Gangs commit a considerable number of offenses in Chicago. In 1995, 218 homicides, 2,245 assaults, 495 robberies/thefts (not including burglaries), 780 weapon possession cases, 1,529 instances of threatening or intimidation, 11,083 vice offenses, 644 cases of criminal damage to property, 10 sexual assaults, and 2 arsons, were all gang-related offenses.[11]

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[8] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: 1996 Update on Violence," at 22.

[9] Id. at pp. 13, 20.

[10] U.S. Department of Justice, Federal Bureau of Investigation, "FBI Law Enforcement Bulletin," at 21 (October 1996) (footnote omitted).

With the rise in gangs has come the rebirth of a crime perhaps not widely seen since the days of Prohibition: drive-by shootings. In Los Angeles, between 1979 and 1986 that number varied between 22 and 51, but in 1987 the death toll from drive-by shootings rose to 57, the following year to 71, and the year after that to 110.[12] In 1996, Salt Lake City, UT, experienced an unprecedented 208 gang-related drive-by shootings. Moreover, juveniles gangs have migrated from jurisdictions, such as Los Angeles, to communities across the Nation, thereby spreading widely the scourge of gang violence to small towns and rural communities.

Many observers believe that we have not yet seen an end to the growth in violent juvenile crime. Juvenile arrest for murder are projected to increase 145 percent from 1992 to 2010; aggravated assault rates, would increase 129 percent. The Department of Justice predicted that, if current trends continue, as they have over the past 10 years, juvenile arrests for violent crime will more than double by the year 2010.[13]

To be sure, juvenile murder arrests declined 14 percent from 1994 to 1995, and the number of juvenile arrests for murder in 1995 was 9 percent below the level in 1991. That number was 90 percent above the number of juvenile murder arrests in 1986. Moreover, juvenile arrests from index property crimes did not change from 1991 to 1995, and the decline in juvenile burglary arrests (11 percent) and motor vehicle theft arrests (17 percent) were offset by the 6-percent increase in juvenile arrests for larceny-theft, the highest volume offense category for juveniles. Juveniles were involved in 13 percent of all drug arrests in 1995, a 138-percent increase since 1991. Recent figures therefore do not supply a sound basis for believing that juvenile crime has peaked.[14]

B. YOUTH DRUG ABUSE

Recent data on trends in youth drug abuse indicate that it continues to be a problem spiraling out of control. Juvenile drug arrests increased 42 percent between 1993 and 1994.[15] The administration lauds the latest findings of the National Household Survey on Drug abuse as enormously encouraging despite the fact that there were, according to the Department of Health and Human Services statisticians "not statistically significant reductions" in several key finding areas. For instance, the survey found that, in the past year use of "any illicit drug" was down 7 percent among the 12 to 17 age group. The survey also found that past year marijuana use is down 8 percent among this age group.

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[11] Deborah Lamm Weisel & Ellen Painter, "The Police Response to Gangs," at 24–25 (1997).

[12] Malcolm Gladwell, "The Tipping Point" at 5 (October 1996), reprinted from The New Yorker (June 3, 1996).

[13] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: 1996 Update on Violence," at 15.

[14] N. Howard Snyder, "Juvenile Justice Bulletin—Juvenile Arrests 1995," U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, at 1.

[15] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: 1996 Update on Violence," at 11.

A closer examination of these statistics, however, reveals startling data concerning other facets of youth drug trends. For instance, the age in which children first experiment with drugs remains dangerously low. The first use of marijuana remains at 16.7 years of age—the lowest level ever recorded, with estimates going back to 1963. Among members of the Class of 1996, fully 21.9 percent reported to have used marijuana or hashish on at least a monthly basis. Nearly 50 percent percent of the Class of 1996 had used marijuana before graduation. Already at the lowest level since 1972, the mean age of first use of hallucinogens dropped to 17.7 years, its lowest level in 20 years, while first use of cocaine again dropped to 19.1 years of age.

In addition, drug use among older teens and young adults continues to grow out of control. Past year marijuana use by 18- to 20-year-olds increased 17 percent, and among this age group past year cocaine use was up 25 percent. Although at a far lower use level compared to these other drugs, heroin use among 18- to 25-year-olds escalated 200 percent.

According to a report released by the National Center on Addiction and Substance Abuse (CASA) at Columbia University in September 1997, the proportion of eighth graders who reported that they had used marijuana by the seventh grade rose from 7.7 percent in 1992 to 12.7 percent in 1996. The number of 9- to 12-year-olds trying marijuana reportedly doubled from 2 percent in 1995 to 4 percent in 1996. Equally frightening, the proportion of eighth graders who had used heroin rose from 1.2 percent in 1991 to 2.4 percent in 1996. This report also found that the number of 12- to 17-year-olds who know someone who uses heroin, cocaine, or LSD jumped from 39 percent in 1996 to 56 percent this year, and the number of 12-year-olds who stated they knew a hard-drug user more than doubled in just 1 year, from 10.6 percent in 1996 to 23.5 percent in 1997.

C. Law Enforcement Versus Prevention

There has been considerable debate within the criminal justice system and among members of the public over the appropriate emphasis to be placed on the importance of punishment and prevention. Some believe that increasing punishments cannot solve the juvenile crime problem, for example, because minors do not have the emotional maturity fully to gauge the consequences of their actions, and that some minors pay little or no attention to the potential long-term consequences of their actions, because they do not anticipate reaching adulthood. They contend that a massive construction campaign is prohibitively expensive in its own right and is both needlessly punitive and immoral if the same amount of crime reduction benefits can be accomplished without imprisonment. Finally they maintain that imprisoning juveniles merely produces more skilled and more violent offenders.

By contrast, others maintain that the focus should be on punishment rather than on prevention, because punishment itself prevents crime, through its incapacitative and deterrent effects. They argue that prevention programs designed to strengthen dysfunctional families waste public funds and naively assume that government intervention in such matters can strengthen families; that prevention programs designed to provide after-school athletic programs or other activities for juveniles, while salutary in theory, oftentimes become little more than job programs for adults; the injuries suffered by victims are no less severe when the offender is a minor; that the costs of crime to society greatly outweigh the costs of incarceration to juvenile offenders;[16] that the profligate expenditure of money on intractable social problems serves no one but the politicians who vote for such programs; and it is immoral to subordinate the interests of law-abiding citizens to those of lawbreakers.

The Committee believes that both theories have their place in the juvenile justice system, but that the time has come to reassess the theoretical underpinnings of that system. The theory that "there is no such thing as a bad kid" no longer has merit in a day when juveniles commit the type of horrific crimes that are seen daily. At the same time, the Committee does not believe that all efforts at prevention should be abandoned. The bill that the committee recommends therefore does nothing of the kind. On the contrary, the bill reported by the Committee is quite generous regarding the amount of money that may be spent on juvenile crime prevention programs:

> *Block Grant Prevention—$1 billion:* The block grant provision included in Title III of the youth violence bill authorizes $2.5 billion over 5 years for State and local youth violence block grants. Sixty percent of block grant funds are earmarked for particular programs: namely, juvenile detention, juvenile criminal records upgrades, and drug testing of juvenile offenders. The remaining forty percent—$1 billion—may be spent on any enumerated grant purpose. These include the following: (1) school or vocational programs as a part of a court imposed sentence; (2) literacy or job training programs; (3) substance abuse treatment; (4) crime control or prevention programs, including curfews, youth organizations, antidrug programs, antigang programs, and after-school activities; (5) anti-truancy programs; (6) coordinated multi jurisdictional or multi agency programs for the control, supervision, prevention, investigation, and treatment of repeat serious or habitual juvenile offenders (sometimes called "SHOCAP"); and (7) gang prevention programs.

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[16] "Despite liberal rhetoric to the contrary, economic factors like poverty, a poor economy, low wage or income growth and high unemployment do not cause crime. If anything, the reverse is true: crime causes poverty and economic stagnation. Although the cost of building and maintaining more prisons is high, the cost of not doing so appears to be higher. A recent study by Brooking Institution researchers found that keeping most prisoners behind bars lowered their cost to society. Even at $25,000 a year, keeping the average criminal in prison is worthwhile, since on the streets he would commit an average of 12 or more nondrug crimes each year. For serious crimes, therefore, imprisonment pays for itself." Morgan O. Reynolds, National Center for Policy Analysis, "Crime and Punishment in America," Policy Report No. 193, at 19 (June 1995).

State Formula Grants—$750 million: The bill reauthorizes, with some modifications, the State formula grant program, as well the mentoring, boot camp, and gang prevention parts of the existing Juvenile Justice and Delinquency Prevention Act (JJDPA). These all are prevention programs, and are authorized for $150 million per year for 5 years.

Boys and Girls Clubs in Distressed Areas—$80 million: The bill streamlines the grant authorization signed into law last year as part of the Economic Espionage Act that is providing seed money for the expansion and construction of Boys and Girls Clubs in distressed areas. The streamlined grant authorization in the bill also funds a youth mentor speaker's program.[17]

Flagship Boys and Girls Clubs—$15 million: The bill authorized $15 million for the establishment of at least three "flagship" state of the art boys and girls clubs.

High Intensity Interstate Gang Activity Area Prevention—$200 million: The bill authorizes $200 million ($40 million per year) for community-based gang prevention and intervention for gang members and at-risk youth in gang areas.

Runaway and Homeless Youth Grants: These prevention grants are reauthorized for a total of $100 million in fiscal year 1998 and for sums as necessary for the next 4 fiscal years. Additionally, the Missing Children grant program is reauthorized for sums as necessary for fiscal years 1998 through 2002.

Other Federal Government Prevention Programs: According to the GAO, the Federal Government currently spends more than $4 billion annually in prevention money for juveniles, in 131 different Federal programs. These include 21 gang intervention programs, 35 mentoring programs, 42 job training assistance programs, 47 counseling programs, 44 self-sufficiency programs, and 53 substance abuse intervention programs.

D. TITLE I

1. *In General.*—In recommending this title, the Committee seeks to advance two goals. First and foremost, the Committee wishes to streamline the process for adjudicating or prosecuting the few juveniles who are charged each year with violations of Federal law. In the view of the Committee, the provisions of present law governing Federal juvenile cases, found in chapters 401 and 403 of title 18, United States Code, are unnecessarily complicated, overly restrict prosecutorial discretion, and insufficiently incorporate the principles of an accountability-based system of juvenile justice.

Second, it is the Committee's hope that the revised Federal statute will more closely resemble the juvenile criminal laws of those States that have undertaken reform in recent years, while at the same time serving as a model for States which have not yet reformed their laws. Ultimately, the Committee hopes that reform of Federal laws will promote more uniform and accountability-based juvenile crime laws nationwide.

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[17] Section 401 of the Economic Espionage Act of 1996, Public Law 104-294, 110 Stat. 3496 (Oct. 11, 1996) authorized $100 million over 5 years for Boys and Girls Clubs; 4 years, or $80 million, remains on the authorization.

2. *Section 101—Repeal of General Provision.*—This section repeals the provision of current law establishing the general practice of surrendering to State authorities juveniles arrested for the commission of Federal offenses. The Committee believes this provision to be anomalous, and inconsistent with the roles and duties of sovereign levels of government in our Federal system. The Committee believes that the Federal Government should assume responsibility for the prosecution of violations of Federal law, regardless of whether the offender is a juvenile or an adult, when, in the Federal Government's prosecutorial discretion, such violations merit prosecution. The Committee notes that there is no presumption of surrendering to State authorities adult offenders arrested for Federal offenses. It is the Committee's considered view that in this respect adult and juvenile violators of Federal law should be treated the same, and thus, the presumption of surrendering juvenile offenders to State authorities should be repealed. The Committee does not expect that the number of juveniles prosecuted or adjudicated in Federal court will increase inappropriately. The Committee expects that United States Attorneys and the Department of Justice will continue to exercise measured discretion in prosecuting violations of Federal law committed by juveniles.

3. *Section 102—Treatment of Federal Juvenile Offenders.*—This section revises section 5032 of title 18, United States Code, governing the circumstances under which a juvenile may be tried for a violation of Federal law in a district court of the United States. Like section 101, this section eliminates the presumption for most offenses that a juvenile alleged to have committed an act of juvenile delinquency should be surrendered to State authorities.

This section also revises the provisions of 18 U.S.C. 5032, relating to charging decisions in Federal juvenile cases. With regard to Federal offenses that are serious violent felonies or serious drug offenses, this section vests in the United States Attorney the discretion to proceed against the alleged juvenile offender as an adult. With regard to all other Federal felonies, the discretion of whether to prosecute an alleged juvenile offender as an adult is vested in the Attorney General of the United States, who in turn may delegate this authority within the Justice Department or to U.S. Attorneys. Federal misdemeanors committed by juveniles would always be prosecuted, if at all, in juvenile delinquency proceedings, rather than in adult criminal proceedings. Additionally, it is the Committee's intent that the decision to proceed in juvenile delinquency proceedings against a juvenile alleged to have committed an act that, if committed by an adult would be a Federal crime, will always be at the discretion of the U.S. Attorney.

The prosecutorial discretion of the U.S. Attorney or the Attorney General would not be limited by current certification requirements, which provide that the Attorney General certify to the court, inter alia, that "the juvenile court * * * of a State does not have jurisdiction or refuses to assume jurisdiction * * *, the State does not have available programs and services adequate for the needs of juveniles," or that the offense is one of an enumerated list of Federal drug or firearms offenses. The Committee notes that according to data provided by the Bureau of Justice Statistics, in 1995 U.S. Attorneys declined to proceed against approximately 75 juveniles that they felt should have been prosecuted or adjudicated in Federal court, because the U.S. Attorney was unable to make the necessary certification in Federal court. [18]

It is important to note that this provision affects only the internal procedure by which the Federal Government can bring prosecution that is within Federal jurisdiction under another law. This provision does not enlarge the criminal subject matter jurisdiction of the United States. For a juvenile to be proceeded against in a court of the United States, either as an adult or as a juvenile, the offense must be a violation of Federal law. For example, this bill does not make a Federal crime out of an ordinary shoplifting offense or a simple assault committed by a juvenile that was not otherwise within Federal jurisdiction. Such offenses would remain State law crimes.

The Committee, however, believes that the Attorney General and U.S. Attorneys should be free to prosecute Federal crimes in addition to serious violent crimes and serious drug crimes. There are numerous Federal offenses that a juvenile might commit that are neither violent nor drug crimes, but for which only Federal law provides an adequate prosecutorial remedy.

In addition, this section provides the uniform age of 14 at which a juvenile alleged to have committed a Federal offense, may be prosecuted as an adult. Current law provides for the transfer to adult status (subject to court approval) at age 15 for juveniles alleged to have committed some offenses, and at age 13 for juveniles alleged to have committed certain other offenses. Additionally, juveniles 16 years old or older alleged to have committed certain violent Federal offenses and who previously have been found guilty of a similar offense, are subject to mandatory transfer to adult status. It is the Committee's view that the clarity of the law and the administration of justice will be enhanced by a uniform age of 14 for transfer to adult status of juveniles alleged to have committed any Federal felony at the judicially unreviewable discretion of either the U.S. Attorney or the Attorney General. Many States use 14 as the age for either the mandatory or discretionary transfer of a juvenile to adult court. This amendment therefore is fully consistent with that trend.

This section also provides that the same sentencing policies and procedures applicable to persons who were adults at the time of the offense shall apply to cases in which a juvenile is prosecuted as an adult. The Committee intends this provision to clarify, rather than change, current law and practice. In particular, in recommending this clarification to the law, the Committee does not intend to create an implication that juveniles arrested, charged, and convicted as adults for crimes committed prior to the enactment of the Violent and Repeat Juvenile Offender Act are not subject to the same penalties, sentencing policies, and sentencing procedures as other adult defendants. Additionally, it is the Committee's intention that until Sentencing Guidelines for juveniles tried as adults are promulgated by the Sentencing Commission pursuant to the amendments made by section 111, the current adult guidelines shall continue to apply to such defendants.

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[18] U.S. Department of Justice, Bureau of Justice Statistics, "Bureau of Justice Statistics Special Report: Juvenile Delinquents in the Federal Criminal Justice System" (January 1997).

4. *Section 103—Definitions.*—This section provides definitions for chapter 403 of title 18, United States Code, and includes definitions of the terms "adult inmate," "prohibited physical contact," and "sustained oral communication" to ensure that juveniles incarcerated pursuant to conviction or adjudication of delinquency in Federal court are protected from abuse by adult inmates. In recommending this provision, the Committee does not intend to limit the Attorney General's discretion in the selection of appropriate facilities for the incarceration or detention of juveniles, or to preclude the use of facilities that incarcerate both juveniles and adults ("colocated facilities'). Additionally, the Committee does not intend the terms "prohibited physical contact" or "sustained oral communication" to preclude the incarceration of juveniles in co-located facilities utilizing shared staff or infrastructure, such as cafeterias, yards, gymnasiums, or health care facilities.

This section also includes a definition of the term "juvenile delinquency." The Committee specifically intends that the reference to "violation of a law of the United States" in this definition include violations of 18 U.S.C. 13, the Assimilated Crimes Act.

5. *Section 104—Notification after Arrest.*—The Committee's intent in recommending this section is to conform existing law relating to the arrest notification requirements applicable when a juvenile is arrested for a Federal offense with the procedural changes made in section 102. The Committee intends to provide greater flexibility to arresting authorities with regard to notification of the arrested juvenile's parents, and to clarify that the provisions protecting juvenile inmates from abuse by adult inmates apply during the post-arrest period in order to protect juveniles from abuse when they are arrested on Federal charges.

6. *Section 105—Release and Detention Prior to Disposition.*—The Committee intends this provision, which provides, inter alia, that juveniles who are to be prosecuted as adults are subject to pretrial release on the same terms as other adult defendants, to clarify current law in this regard. In recommending this clarification to the law, the Committee does not intend to create an implication that juveniles arrested and charged as adults prior to the enactment of the Violent and Repeat Juvenile Offender Act are not subject to detention on the same terms as other adult defendants. Additionally, this section ensures that appropriate penalties are imposed on juveniles, particularly juveniles being prosecuted as adults, who commit a Federal crime while on pretrial release. Finally, the Committee intends this section to clarify that the provisions protecting juvenile inmates from abuse by adult inmates apply during the pretrial detention period in order to protect from abuse juveniles arrested on Federal charges.

7. *Section 106—Speedy Trial.*—The Committee is concerned that as the nature of the crimes committed by juveniles becomes more serious, the provisions of current law relating to speedy trials in juvenile cases are inadequate to ensure that justice is done. More se-

rious and complex crimes require greater preparation on the part of both the prosecution and the defendant to ensure a fair and just trial. The Committee believes that this section makes appropriate changes current law, to apply to Federal juvenile criminal cases the same time limits and tolling periods that apply in adult cases.

8. *Section 107—Dispositional Hearings.*—The Committee intends this section to reform the penalties available to a Federal court in sentencing a juvenile adjudicated delinquent (i.e., not tried as an adult) for a violation of Federal law. First, this section ensures that adequate time is available to the court to make sentencing decisions, by extending from 20 to 40 days the amount of time which may elapse between the finding of delinquency and sentencing (otherwise known as "dispositional hearings"). The Committee believes this provision to be appropriate in light of the increasing complexity of juvenile delinquency cases.

Second, this section provides explicit recognition of the rights of victims, by ensuring the right of allocution during dispositional hearings.

Third, this section broadens the range of penalties available to Federal judges in sentencing delinquent juveniles, by extending the possible term of probation or supervised release to the same length of time that would be available for an adult defendant, and by extending from age 21 to age 26 the maximum age until which a juvenile may be held when he is sentenced to detention for an act of juvenile delinquency under Federal law. The increase in the authorized period of incarceration will allow a juvenile sentenced to such an extended term of confinement to receive the benefits of whatever educational or rehabilitative opportunities that are available at the detention facility (e.g., drug treatment, counseling, etc.).

In recommending this provision, it is the Committee's intent to encourage delinquency sentencing that will effectuate an accountability-based juvenile justice system with substantial and appropriate sanctions that are graduated to reflect the severity or repeated commission of delinquent acts. The Committee intends that judicial discretion in sentencing juvenile delinquency defendants under this section will be governed by the application of the delinquency dispositional hearing guidelines, once those guidelines are promulgated pursuant to section 111.

9. *Section 108—Use of Juvenile Records.*—The Committee intends this section to expand the use and availability of Federal criminal records of juveniles convicted for or adjudicated delinquent for a violation of Federal law. It is the Committee's strong view that, if juvenile offenders are to be held accountable for their criminal or delinquent acts, the records of their offenses must be made available in appropriate circumstances. In particular, such records need to be available to all courts, police, and prosecutors, available to support the effectuation of the rights of victims of the juvenile's offense, and available to schools and educational institutions. In all cases in which a juvenile is prosecuted as an adult, the Committee's recommended legislation provides that records shall be made available in the same manner as they are in the case of adult defendants.

10. *Section 109—Implementation of a Sentence for Juvenile Offenders.*—The Committee intends this section to expand and clarify

provisions of current law governing detention of a juvenile convicted or adjudicated delinquent for a Federal offense. In addition to clarifying current provisions relating to the incarceration of juveniles pursuant to a Federal conviction or adjudication of delinquency, the Committee in recommending this section provides that sentences of juveniles involving the payment of a fine or restitution, probation, or supervised release are implemented in the same manner as are such sentences in the case of adult defendants. The Committee notes that its recommendation specifically ensures that juveniles under the age of 18 are protected from abuse by adult inmates.

The Committee further notes that the provision it recommends specifically bars making the parent, guardian, or custodian of a juvenile liable for payment of a fine, special assessment, or restitution order. The Committee recommends this provision because of its concern over the potential unconstitutionality of holding persons other than the defendant liable for fulfillment of the requirements of a criminal sentence. The Committee further notes, however, that this provision is not intended to impair an otherwise legal and appropriate forfeiture of assets under applicable State or Federal law, or to impair any civil suit brought appropriately in Federal or State court against a parent, guardian, or custodian of a juvenile convicted of an offense or adjudicated delinquent.

11. *Section 110—Magistrate Judge Authority Regarding Juvenile Defendants.*—This provision amends 18 U.S.C. 3401(g) to give U.S. magistrate judges expanded authority over juvenile defendants in two ways: (1) by providing magistrate judges with authority to try juvenile defendants charged with Class A misdemeanors; and (2) by providing magistrate judges with authority to sentence juvenile defendants to terms of imprisonment in petty offense and misdemeanor cases. The Committee notes that Federal courts have now had more than 25 years of experience with the Federal magistrate system. Magistrate judges now try and sentence nearly all adult Federal misdemeanor defendants. In Class B misdemeanors involving a motor vehicle offense, Class C misdemeanors, and infractions, the requirement that a defendant, either adult or juvenile, must consent to the jurisdiction of a magistrate judge has been eliminated by the Federal Courts Improvement Act of 1996.[19] Moreover, with the 1984 enactment of the Bail Reform Act, 18 U.S.C. 3141 et seq., magistrate judges began exercising broad authority to order the pretrial detention of criminal defendants, sometimes for extended periods of time.

Under the Juvenile Delinquency Act, magistrate judges have the authority to detain juvenile defendants before trial. See 18 U.S.C. 5034 and 5035. This results in a curious paradox: magistrate judges may order the pretrial detention of juvenile defendants who have committed felonies, yet are forbidden to sentence a juvenile to even a minimal prison sentence for committing a petty offense. Under the current system, magistrate judges may not even punish a juvenile defendant who violates a probation or a supervised release term, except to impose an additional term of probation or supervised release. Under these circumstances, the Committee believes that it is appropriate to give magistrate judges the authority to impose sentences of imprisonment upon juvenile defendants in misdemeanor cases.

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[19] Public Law 104-317, 110 Stat. 3847 (Oct. 19, 1996).

In the Committee's view, these amendments would enhance judicial efficiency by permitting magistrate judges to preside over all misdemeanor cases, including Class A misdemeanor cases, that involve juvenile defendants, and by providing them with the authority to sentence juvenile defendants to terms of imprisonment in petty offense and misdemeanor cases.

12. *Section 111—Federal Sentencing Guidelines.*—The Sentencing Reform Act of 1984 empowed, without requiring, the United States Sentencing Commission to "study the feasibility of developing guidelines for the disposition of juvenile delinquents."[20] To date, however, the Commission has not addressed this issue. The Committee believes that with the increasing severity of juvenile crime, the time has come for the development of sentencing and adjudication guidelines for use in Federal juvenile cases.

The provision the Committee recommends requires the Sentencing Commission to promulgate guidelines for use in sentencing juveniles tried as adults, as well as separate guidelines for use in dispositional hearings for juveniles tried as juveniles and adjudicated delinquent for violations of Federal law. With regard to sentencing guidelines for juveniles tried as adults, the Committee strongly emphasizes its view that, in developing the guidelines, the Sentencing Commission should presume the appropriateness of existing adult guideline sentences for juveniles tried as adults. The Commission may make adjustments to sentence lengths and provisions governing downward departures that reflect the specific interests and circumstances of juvenile defendants. The Committee intends that such interests and circumstances are primarily the age and maturity of the juvenile at the time of the offense, and notes that, in most instances, the prosecution of a juvenile as an adult should be conclusive that the juvenile is of the age and has the maturity to understand the adult nature of his or her criminal acts.

Regarding dispositional guidelines for juveniles tried as juveniles, the Committee intends these guidelines to provide greater flexibility in fashioning a sentence that combines differing permissible sanctions, such as detention, supervised release, fines, and restitution to implement an accountability-based juvenile justice system that provides substantial and appropriate sanctions, which are graduated to reflect the severity or repeated commission of delinquent acts. While restitution would remain permissive in Federal delinquency adjudications under the Committee's recommendation, the Committee urges the Sentencing Commission to include in its dispositional guidelines a presumption in favor of restitution.

13. *Section 112—Study and Report on Indian Tribal Jurisdiction.*—The Committee notes that the provision it recommends in section 102, inter alia, strikes the so called "tribal opt-in" provision. The tribal opt-in provision was added to 18 U.S.C. 5032 in 1994, and restricts, in cases arising on tribal lands, the transfer to adult status of juveniles ages 13 to 15 accused of certain offenses unless

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[20] 28 U.S.C. 995(a)(19).

the governing body of the tribe has elected to permit such transfers.

In light of the Committee's decision in recommending, in section 102, a uniform age of 14 years for the transfer of juveniles accused of a Federal offense to adult status, and a broadening and simplification of the felony offenses for which a juvenile may be prosecuted as an adult in Federal court, it is the Committee's view that the opt-in provision of current law is obsolete. The Committee notes that the opt-in provision has been an extremely narrow exception from its enactment in section 140001 of the Violent Crime Control and Law Enforcement Act of 1994;[21] it applies only to a very narrow range of juveniles aged 13 to 15, alleged to have committed certain crimes of violence and sexual assault. The Committee's recommended reform of 18 U.S.C. 5032, which repeals the classification of transfers to adult status by age and offense, also obviates the justification for a narrow opt-in provision.

The Committee is aware of proposals that would reinstate an opt-in provision, and would apply the opt-in to all transfers of juveniles to adult status in cases in which Federal jurisdiction is predicated solely on the occurrence of the criminal act in Indian country. The Committee specifically and emphatically rejects such proposals as inappropriate.

Present tribal court jurisdiction is limited. Currently, such courts have no felony jurisdiction. Thus, the effect of an opt-in provision would be to preclude the felony prosecution as adults of juveniles in Indian country. It would be unreasonable for Federal law to limit the penalty for crimes such as murder, rape, robbery or burglary to only 1 year's imprisonment. In the Committee's view, limiting the authority of the Federal Government to prosecute Native American defendants for crimes committed in Indian country would do a disservice to the innocent persons, both Native Americans and others, who live in Indian country and who are the victims or potential victims of crime. What is more, the Committee believes that, because of the sentencing disparity on tribal lands, opt-in system proposed by some would have the abhorrent effect of encouraging some persons to commit murder, rather than simple assault, because there would be no significant additional punishment imposed for eliminating a witness to the crime. That possibility clearly must be avoided. Yet, that is what advocates for the opt-in system urge on Indian country.

Indeed, some evidence already exists that under present law, insufficient penalties are imposed to address violent juvenile crime in Indian country. The Committee's concerns have been confirmed by recent testimony by the Department of Justice at a joint hearing before the Senate Committees on the Judiciary and Indian Affairs. The Department noted that

> the lack of immediate intermediate sanctions at the tribal level directly contributes to the escalation of juvenile delinquent activity. * * * Tribal judges can adjudicate youthful offenders, but confront a lack of viable options for placement, probation, and incarceration. Juvenile recidivism in Indian country is thus very high. Unfortunately, many re-

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[21] Pubic Law 103-322, 108 Stat. 2031 (Sept. 13, 1994).

> peat offenders ultimately graduate to more violent and serious crimes, becoming defendants in the Federal criminal justice system.[22]

The Committee believes that a broader opt-in provision, as has been urged on the Committee, would only serve to exacerbate this deleterious effect, to the endangerment of all who live in Indian country.

Moreover, it is the Committee's view that a Federal law's application must be uniform if it is to be fair and effective, and absent extraordinary circumstances, that the penalty that similarly culpable Federal criminal defendants face should not vary. The credibility of our Federal criminal justice system depends in large part on the extent to which there is uniform application of Federal law. An opt-in provision would create disparate justice for all Federal criminal defendants who commit crimes on tribal lands, regardless of whether they are Native American. This in turn would undermine the integrity of the Federal criminal justice system.

The Committee is mindful of the suggestion that the amendments made by this title will have a "disproportionate impact" on Native Americans. Indeed, the Committee is aware that in 1994, 61 percent of the juveniles confined by the Federal Bureau of Prisons were Native Americans. Native American juveniles, like other juveniles who engage in criminal conduct in Federal jurisdictions, may be affected significantly by the bill the Committee recommends. But the Committee does not believe that this impact is "disproportionate." Tribal lands are subject to Federal, not State, jurisdiction. Therefore, if Native American juveniles who commit crimes on tribal lands are going to be held accountable for those crimes, it will be under Federal jurisdiction and uniform Federal law ought to apply.

In addition, this argument is misdirected. The purpose of the criminal law is to protect innocent parties by identifying and penalizing antisocial conduct. An opt-in scheme is ineffective in any instance in which a tribe refuses to opt-in to Federal jurisdiction, because a tribe's refusal to submit to Federal jurisdiction would unjustifiably reduce the penalty that could be imposed on an Indian juvenile offender. Moreover, an opt-in provision becomes irrelevant if all tribes in fact opt-in.

Consider the case of murder. Federal law imposes a mandatory minimum penalty of life imprisonment for the crime of murder committed within Federal jurisdiction, when the offender is prosecuted and convicted as an adult. Under an opt-in scheme, however, if a tribe refused to opt-in to Federal jurisdiction, the maximum penalty that could be imposed on a tribal juvenile defendant tried as an adult in tribal courts would be imprisonment for one year and a fine of $5,000. In the alternative, if the tribal member were a juvenile tried as a juvenile in Federal court, the maximum penalty that could be imposed on the defendant would be 12 years' confinement under the bill recommended by the Committee. There is no legitimate justification for such a bizarre penalty scheme.

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[22] Statement of Kevin Di Gregory, Deputy Assistant Attorney General, Criminal Division, before the Senate Committee on the Judiciary and the Senate Committee on Indian Affairs, concerning gang activity within Indian country (Sept. 17, 1997).

The Committee also believes that such an opt-in scheme would violate the Equal Protection component of the fifth amendment's due process clause. Again, the sentencing disparity provides an instructive example of the Committee's concern. An opt-in scheme would create the following anomaly: The maximum term of confinement for murder committed by a juvenile Indian in Indian country would be imprisonment for one year if the defendant were tried as an adult in tribal court, or, under the committee's recommended bill, 12 years' confinement if the juvenile Indian defendant were tried as a juvenile in Federal court. The penalty for a similarly situated non-Indian juvenile committing the same offense, however, would be life imprisonment if the murder were committed within Federal jurisdiction, including in Indian country.

Such a penalty scheme clearly would violate equal protection principles, because it would subject persons who were not members of Indian tribes to a vastly greater punishment than such tribal members could receive. The Committee realizes that, generally, Federal laws governing Indian tribes are not treated as resting on racial criteria.[23] Were they, an opt-in provision likely would be held unconstitutional, since the distinction drawn by such a law would then hinge on racial criteria, and the distinction could be sustained only if there were a compelling state interest justifying it, and then only if the distinction were narrowly tailored to that specific justification.[24]

As noted, the Committee recognizes that the courts have given great deference to Congress in determining policies in Indian country, and that in several contexts, legislative schemes that treat tribal members differently from others have been held to fully comport with equal protection principles.[25] The Committee believes, however, that such classifications are most dangerous when the power of the Federal Government to impose criminal punishment is at stake,[26] as it would be under an opt-in provision. Indeed, the severe differential treatment created by an opt-in scheme is likely irrational under even a lenient standard of review, and thus, such a provision would likely fail to satisfy equal protection requirements.

In *United States* v. *Antelope*,[27] the Supreme Court held that Federal prosecution of Native Americans is permissible even if the Federal Government's criminal jurisdiction is based solely on the defendant's status as a tribal member, but assumed that the defendants were "subjected to the same body of law as any other individual, Indian or non-Indian, charged with first-degree murder committed in a Federal enclave."[28] Indeed, in rejecting the defendants' equal protection claim, asserting that they were disadvantaged because Federal law, unlike State law, had no requirement that the Government prove premeditation to obtain a conviction on first-degree murder charges, the Court noted explicitly that "[u]nder our federal system, the National Government does not violate equal protection when its own body of law is evenhanded."[29] The Court did not address the issue inexorably raised by an opt-in scheme, "in which Indians tried in federal court are subjected to differing penalties and burdens of proof from those applicable to non-Indians charged with the same offense."[30]

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[23] See *United States* v. *Antelope*, 430 U.S. 641 (1977); *Morton* v. *Mancari*, 417 U.S. 535 (1974). But cf. *Adarand Constructors, Inc.* v. *Pena*, 515 U.S. 200 (1995) (contracting preference for Native Americans as a social class violates equal protection); *Duro* v. *Reina*, 495 U.S. 676, 689, 690 (1990) (distinguishing Native Americans as an overarching class from Native Americans as members of individual tribes) (citations omitted).

[24] See, e.g., *Adarand*, 515 U.S. 200 (1995) (contracting preference for Native Americans as a social class violates equal protection).

[25] See, e.g., *United States* v. *Antelope*, 430 U.S. 641 (1977) ("federal legislation with respect to Indian tribes, although relating to Indians as such, is not based upon impermissible racial classifications"), *Morton* v. *Mancari*, 417 U.S. 535 (1974) (Employment preference laws for Native Americans based on permissible tribal membership criteria are not race-based preferences and do not violate the equal protection clause).

[26] See, e.g., *Duro* v. *Reina*, 495 U.S. 676, 693 ("Criminal trial and punishment is so serious an intrusion on personal liberty that its exercise [by Indian tribes] over non-Indian citizens was a power necessarily surrendered by the tribes in their submission to the overriding sovereignty of the United States.") (citing *Oliphant* v. *Suquamish Indian Tribe*, 435 U.S. 191, 210 (1978)).

[27] 430 U.S. 641 (1977).

The Committee has grave doubts that the courts would view an opt-in scheme as the same kind of benign treatment of tribes as "unique aggregations possessing attributes of sovereignty over both their members and their territory".[31] Indeed, the Federal courts of appeals that have reviewed this issue have held that wildly disparate penalties for tribal members and nonmembers violate the equal protection element of the due process clause of the fifth amendment.[32] The Committee believes that there is no legitimate justification for such a difference in the application of Federal law between members and nonmembers of Indian tribes. Accordingly, the Committee believes that the opt-in scheme would be unconstitutional.

The Committee recognizes, however, that further analysis of this issue is required in order to determine whether Congress should enlarge the jurisdiction of the tribal courts. Therefore, it recommends this section, which directs the Attorney General to study and report to the Congress on appropriate changes, if any, to the criminal jurisdiction of tribal courts.

E. TITLE II

1. *In General.*—The Committee is extremely concerned with the alarming increase in criminal gang activity and therefore recommends this title to address that growing national menace. The Committee has found that gangs not only have increased in size and strength, but also have become more sophisticated. Gang activity has spread across the country at a startling rate and is placing more and more of our people in harm's way.

Interstate and international criminal gang activity is becoming a national crisis, and the Committee believes that it is time for Federal Government to take a greater role in assisting State and local law enforcement efforts in addressing these criminal enterprises.

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[28] Id. at 648.

[29] Id. at 649 (emphasis added).

[30] Id. at footnote 11 ("That issue is not before us, and we intimate no views on it." Id.)

[31] Id. at 645, quoting *United States* v. *Mazurie*, 419 U.S. 544, 557 (quoting *Worcester* v. *Georgia*, 31 U.S. (6 Pet.) 515, 557).

[32] See, e.g., *United States* v. *Big Crow*, 523 F. 2d 955 (8th Cir. 1975), cert. denied, 424 U.S. 920 (1976) (Major Crimes Act (18 U.S.C. 1153) "cannot constitutionally be applied so as to subject an Indian to a greater sentence than a non-Indian could receive for the same offense"); *United States* v. *Cleveland*, 503 F.2d 1067 (9th Cir. 1974) (same); see also *United States* v. *Yazzie*, 693 F.2d 102 (9th Cir. 1982) ("Congress is not required to eliminate all differences in treatment between Indians and non-Indians so long as all persons subject to Federal jurisdiction are treated the same. Id. at 104 (citing *United States* v. *Antelope*, 430 U.S. 641 (1977) (emphasis added).

Gangs now more resemble organized crime syndicates than small, romanticized neighborhood street toughs, like those portrayed in "West Side Story" as the "Sharks" and the "Jets." Today's street gangs have not confined themselves to one small neighborhood or "turf." Gangs have expanded from State to State and have national and international networks of illegal activity. Gangs accomplish this goal by developing cells in different cities to further the illegal activities of the gang, such as trafficking in illegal drugs. Gangs, in short, have franchised. The structure of these large, interstate gangs is organized and complex. Most large gangs actively recruit new members, collect membership dues, provide legal defense funds, retain private lawyers, and reportedly in one case, even have a political action committee. Such organization has increased the strength of gangs, as well as the danger that they pose to society.

Gang violence, moreover, is now common even in places where it would have been unthinkable several years ago. Nationwide, 95 percent of major cities and 88 percent of smaller cities report problems with gang violence. Gangs like the "Bloods" and the "Crips," that originated in Los Angeles have made their way into smaller cities; in fact, the "Bloods" and "Crips" have expanded to at least 118 cities. The "Gangsta Disciples" have expanded throughout the Midwest and south, and Asian Gangs have emerged in 16 cities throughout the country.

Given the nationwide nature of our gang problem, the rapid growth in interstate gangs, and its devastating impact in our communities, the Committee believes that it is time for the Federal Government to step up its efforts to assist State and local law enforcement to curb gang violence. The Committee does not, in recommending this title, advocate an unwarranted expansion of Federal jurisdiction. But in the case of criminal gangs that are now moving interstate and internationally to commit crimes, it is proper for the Federal Government to step in and play an important role.

This title is entitled the Federal Gang Violence Act. The Committee believes that this title is needed to add teeth to the current Federal law on criminal street gangs, codified at 18 U.S.C. 521. In the Committee's view, this law is too narrowly focused on drug offenses and provides inadequate penalties to be an effective tool for Federal prosecutors. This title strengthens the coordinated and cooperative response of Federal, State, and local law enforcement to criminal street gangs. This act will provide the Federal prosecutorial tools needed to combat gang violence, by adding tough penalties based on the existing Continuing Criminal Enterprise statute in title 21 (21 U.S.C. 848). Federal prosecutors will be able to charge gang leaders or members—and criminally forfeit their gang-related assets—under this section if the gang leaders or members engage in two or more criminal gang offenses. Such offenses include: violent crimes; serious drug crimes; drug money laundering; extortion; and obstruction of justice—all offenses that commonly are committed by gangs.

The Federal Gang Violence Act also adds a 1-to-10-year sentence for recruiting persons into a gang. An important component of this provision, provides more severe penalties for recruiting a minor into a gang, including a 4-year mandatory minimum sentence.

The Act adds to the list of offenses for which a person can be prosecuted under the Federal racketeering laws, known as RICO, the use of a minor to commit a crime. It also enhances the penalties for transferring a handgun to a minor, knowing that it will be used in a crime of violence, and adds a sentencing enhancement for the use of body armor in the commission of a Federal crime.

2. *Section 202—Increase in Offense Level for Participation in Crime as a Gang Member.*—It is the Committee's view that due to the organized nature of gang activity, crimes committed in connection with gangs pose a greater threat to community safety than might be the case were the same crimes committed absent a gang connection. Therefore, the Committee recommends this section, which directs the United States Sentencing Commission to amend the Federal sentencing guidelines to enhance appropriate penalties for criminal offenses committed in connection with or in furtherance of a criminal gang.

3. *Section 203—Amendment to Title 18 with Respect to Criminal Street Gangs.*—The Committee believes that current laws addressing organized gang-crime activity each contain gaps that leave unpunished significant criminal activity. For instance, the RICO statute, which, the Committee notes has been used successfully against some criminal gangs, prohibits, inter alia, investment, ownership, or operation of a business with proceeds of pattern of racketeering activity (defined as two acts among the list of predicate crimes in 18 U.S.C. 1961, including some State law offenses). In contrast, section 203 makes a separate crime of the serial commission of various predicate gang crimes.

Similarly, the Federal Continuing Criminal Enterprise Act (CCE) (21 U.S.C. 848) prohibits, in essence, leading a drug gang. Conviction under the CCE requires proof of the commission of a series of Federal drug crimes by the leader of a group of five or more persons, and requires that "substantial income" have been obtained from the offenses. Although similar to the CCE, section 203 fills gaps left by the CCE—unlike the CCE, the application of section 203 is not limited to leaders or organizers; section 203 covers a wider range of offenses commonly committed by gangs; and section 203 does not require a showing that income has been derived from those offenses.

Last, the provisions of section 203 fills gaps that the Committee believes exist in section 521 of title 18, which section 203 amends. Currently, 18 U.S.C. 521 provides an additional sentence of up to 10 years for a gang member who commits a Federal drug offense or violent crime, knowing that the gang's members engage in a continuing series of similar crimes and who commits the crime intending to maintain or increase his or her position in the gang. Section 203 amends this section to address what the Committee believes is the evolving, broader nature of gang crime. In place of the sentence enhancement in current law, section 203 creates a separate criminal offense for the serial commission of various predicate gang crimes. The list of predicate gang crimes is broadened as well, to include additional crimes commonly committed by gangs such as extortion, obstruction of justice, laundering of drug money, violent and drug crimes, and the State equivalents of those offenses. Unlike the provision of current law, the amendment recommended by the Committee does not require a showing of intent to maintain or increase position in the gang as an element of the offense.

The Committee emphasizes that in recommending this section, it does not intend to federalize all State crimes relating to gang activity. The Committee expects that the Federal Government will exercise sound prosecutorial discretion in bringing cases under this statute. The Committee also expects that the Government's charging decisions will be tempered by a respect for federalism and the prerogatives of State and local law enforcement, and that these charging decisions will be the product of cooperation between all levels of law enforcement. Indeed, the Committee notes that the recommended statute requires the Department of Justice to certify that the public interest justifies bringing a Federal prosecution. In order to advance the Committee's purpose in recommending this section, however, the Committee also notes its belief that by its nature, the effective prosecution of interstate and international criminal gang activity will frequently be beyond the capabilities and jurisdiction of State and local governments, and therefore emphasizes that in nearly all instances Federal prosecution of such activity will be, in the term of the recommended statute, "necessary to secure substantial justice."

4. *Section 204—Interstate and Foreign Travel or Transportation in Aid of Criminal Street Gangs.*—The Committee believes that the Federal Travel Act, which, inter alia, prohibits travel in interstate or foreign commerce in furtherance of illegal activity, must be updated in order to reach offenses frequently committed by gangs and other organized-crime entities. This section recommended by the Committee adds to the list of Travel Act predicates in current law offenses such as extortion, burglary in excess of $10,000, drive-by shootings, certain violent assaults, and witness intimidation.

5. *Section 205—Solicitation or Recruitment of Persons in Criminal Gang Activity.*—The Committee believes that current law does not sufficiently penalize or discourage the recruitment of persons into criminal gangs. Without the recruitment of new members, and the pressure of threats or intimidation that frequently keeps members from leaving the gang, many gangs might disappear over time.

Particularly pernicious, in the Committee's view, is the recruitment of minors into gangs. Gang leaders prey on the most vulnerable juveniles—those without solid family structures, and in need of guidance and acceptance. Gangs are attractive to juveniles because they offer structure, acceptance, and camaraderie. The price to the juvenile, however, is participation in a culture of drugs, intimidation, and criminal activity from which the juvenile may find it difficult to extricate him or herself. Increasingly, juveniles appear to be recruited to criminal gang activity because the perceived leniency of the juvenile justice system.

Ordinary solicitation or conspiracy offenses require the government to prove that the new gang member was recruited for the specific purpose of committing an offense. In the case of gang recruitment, however, the criminal solicitation may come some time after the initial recruitment into the gang, after the gang has instilled loyalty in the recruited member, making solicitation or conspiracy charges ineffective for the purpose of deterring gang recruitment.

The Committee recommends this section to address this problem, which adds a new section 522 to title 18, United States Code. This section provides stiff Federal criminal penalties for the recruitment of persons into a criminal gang, including a 1-year mandatory minimum for the recruitment of an adult and a 4-year mandatory minimum for the recruitment of a minor.

6. *Section 206—Crimes Involving the Recruitment of Persons to Participate in Criminal Street Gangs and Firearms Offenses as RICO Predicates.*—This section adds gang recruitment under 18 U.S.C. 522 (added by section 205) as a predicate offense under the Federal racketeering laws. This section also makes certain firearms offenses RICO predicates. In recommending this section, the Committee notes that its intention is to target persons who further the commission of violent or drug crimes through the illegal use, sale, or transfer of firearms. It is not the Committee's intention to criminalize the innocent acts of law-abiding firearms owners and dealers. As introduced, this section potentially was susceptible to an overbroad interpretation applying these proposed new laws to routine paperwork violations or recordkeeping oversights. The Committee notes that it never intended the provision to reach so broadly and they have been modified by the Committee to ensure the narrow, appropriate application that was intended.

7. *Section 207—Prohibitions Relating to Firearms.*—This section enhances penalties for the commission of certain firearms-related crimes. In particular, this section enhances penalties for transferring a firearm to a minor for use in the commission of a crime and makes acts of juvenile delinquency that would be serious drug offenses if committed by an adult predicate crimes under the Armed Career Criminal Act. The intent of this latter provision is to ensure that juveniles who commit serious drug offenses with a firearm can be held accountable for these acts as career criminals. Currently, such juvenile offenses do not count as Armed Career Criminal Act predicates, effectively nullifying a juvenile's criminal record for this purpose at age 18.

This section also eliminates the mandatory probation requirement for juveniles convicted of possessing a handgun in violation of the Youth Handgun Safety Act. The Committee believes that this mandatory probation provision inappropriately limits prosecutorial and judicial discretion in sentencing juveniles unlawfully in possession of a firearm in cases that may warrant a more serious sanction.

8. *Section 208—Amendment of Sentencing Guidelines With Respect to Body Armor.*—The Committee has been advised that there has been a recent increase in the use of body armor during the commission of violent crimes. The use of body armor by criminals has the potential to embolden criminals to more dangerous behavior, thereby endangering law enforcement officers and the general public. This section directs the United States Sentencing Commission to create an appropriate sentencing enhancement for the commission of a crime while wearing body armor. The Committee does not, however, wish to discourage the legitimate use of body armor by private citizens for self-protection or the use of body armor by law enforcement. For this reason, the Committee has not included in its recommendation a prohibition on the mail-order sale of body

armor, and has included a provision limiting the sentencing enhancement's application to law enforcement officers.

9. *Section 209—Prison Communications.*—The Committee is concerned that a gap in Federal wiretap laws may be having the effect of facilitating the ability of convicted gang leaders to continue to run their criminal enterprises from inside prison walls. Currently, Federal wiretap statutes, require, inter alia, that a court order be obtained prior to the initiation of a wiretap by law enforcement and provide no exception for communications conducted over prison phones. Under the first and fourth Amendments to the Constitution, communications by and to prisoners and other persons lawfully detained enjoy less protection than communications by and to other persons and in most circumstances may be monitored by prison and law enforcement authorities. Thus, anomalously, the wiretap statutes provide greater protection to prisoners' and detainees' phone calls than is given to their letters, as well as providing greater protection to prisoner phone communications than is required by the Constitution.

The serious problem of drugs and crime within our Nation's prisons, combined with several prominent examples of gang leaders known to have conducted criminal enterprises in part over phones installed in the prison, has led the Committee to conclude that an exemption to the Federal wiretap laws for prisoner phone calls is warranted. The Committee notes that its recommendation specifically protects communications privileged under any privilege recognized by the Supreme Court (including the attorney-client privilege), as well as an inmate's right to counsel under the sixth amendment.

10. *Section 210—High Intensity Interstate Gang Activity Areas.*—The Committee recommends this section to advance cooperation between Federal, State, and local law enforcement in investigating disrupting, and prosecuting gangs which operate and recruit interstate.

11. *Section 211—Increased RICO Penalties for Gang and Violent Crimes.*—The Committee recommends this section to ensure that the penalties for violations of Federal racketeering laws are as severe as the penalties for the underlying crimes that serve as racketeering predicates.

12. *Section 212—Increasing the Penalty for Using Physical Force to Tamper With Witnesses, Victims, or Informants.*—In recommending this section, the Committee wishes to take further steps to protect witnesses, victims, and informants, without whom many gang-related crimes would simply go unpunished. The Committee is troubled by the frequency of retaliation against and intimidation of witnesses, resulting in failed prosecutions.

Specifically, this section increases the penalty from a maximum of 10 years' imprisonment to a maximum of 20 years' imprisonment for using or threatening physical force against any person with intent to tamper with a witness, victim, or informant. The section also adds a conspiracy penalty for obstruction of justice offenses involving victims, witnesses, and informants. In addition, this section makes it a violation of the Federal Travel Act, 18 U.S.C. 1952, to travel in interstate or foreign commerce to bribe, threaten, or intimidate a witness to delay or influence testimony in a State criminal proceeding.

13. *Section 213—Clone Pagers.*—This provision conforms the requirements for authorization of a clone pager to those of a pen register. Pagers are frequently used to conduct illegal transactions by criminals generally, and by drug dealers in particular. A clone pager is a device programmed identically to another digital display pager that allows the user of the clone pager to receive messages at the same time as the actual pager. It cannot receive the content of messages, only the telephone numbers of those paging the pager user. While a clone pager and pen register serve the same function, the requirements for receiving authorization to use a clone pager currently are more demanding. This section will allow law enforcement officers to be more efficient in doing their jobs—protecting Americans from crime, by conforming the requirements for authorization of a pager to those of a pen register.

F. TITLE III

1. *In General.*—In 1974, Congress enacted the Juvenile Justice and Delinquency Prevention Act. Spurred by reports of dangerous conditions in which juveniles accused or convicted of crimes or status offenses were confined, Congress passed legislation to provide States assistance with juvenile justice. As a condition of receiving these funds, States were required to comply with two original mandates, later expanded to four, that purported to protect accused and adjudicated juveniles from abuse. The legislation also established the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and directed it to dispense formula grants to the States and monitor their compliance with the mandates. In addition, the legislation established within OJJDP a research, demonstration, evaluation, and information dissemination component. Congress reauthorized the legislation in 1980, 1984, 1988, and 1992.

The OJJDP legislation, combined with other factors such as later-enacted Federal laws and suits under Federal civil rights laws, largely has achieved the goals of protecting detained juveniles. But OJJDP has not effectively addressed the dramatic increase in juvenile crime, particularly violent juvenile crime. The Federal Government's role in juvenile justice is fragmented and uncoordinated, with hundreds of programs scattered throughout different cabinet agencies. In particular, OJJDP has focused almost exclusively on prevention programs to the neglect of prosecution and detention of juvenile offenders. In fact, OJJDP's unreasonable and inflexible enforcement of the original colocation mandates has seriously undermined the ability of States to detained juvenile criminals. In light of the tremendous increase in violent juvenile crime, OJJDP has actually been counterproductive.

The Committee believes clarification is necessary to ensure that proper scope is given to the application of the definition of "juvenile population" included in section 301 of the recommended bill. The Committee's intent in recommending this provision is to provide a basis for calculating each State's share of formula grants in those instances where the distribution of funds is based in whole or in part on each State's juvenile population. The Committee does not intend this definition, or any other provision included in the recommended bill, to override or preempt a State's statutory age of majority. No provision of the Committee's recommended bill shall be construed to prohibit any State from placing or transferring an alleged or adjudicated delinquent who reaches the State's age of full criminal responsibility, or who has been transferred to adult status under applicable State law, to an adult facility when required or authorized by State law. For example, if a State's statutory age of majority is 17, then that State can treat a 17-year-old detainee as an adult inmate.

2. *Section 302—National Program.*—This section reforms the Office of Juvenile Justice and Delinquency Prevention, redesignating it as the Office of Juvenile Crime Control and Accountability. The purpose of this change is twofold. First, as the title indicates, the change recognizes that juvenile crime today is far more serious and violent than in years past, and that the Federal Government's approach must reflect these changes. Second, the new office will have more power and responsibility. By implementing and coordinating juvenile crime for the entire Federal Government, the Director of that Office will serve as a "juvenile crime czar." It is the Committee's belief that current Federal juvenile justice policy is uncoordinated and duplicative. There are hundreds of Federal programs targeted at "at-risk" or delinquent juveniles scattered throughout each Federal agency. The changes in section 302 seek to bring coordination and accountability to Federal juvenile crime policy.

Specifically, the Administrator of the Office of Juvenile Crime Control and Accountability (OJCCA) is empowered and required to coordinate all Federal programs a primary objective of which is the reduction in juvenile crime and delinquency, or the use of alcohol or illegal drugs by juveniles. This includes programs within the Department of Justice, as well as such programs in other Federal agencies. The Administrator is required to develop a consolidated National Juvenile Crime Control and Juvenile Offender Accountability Budget for all Federal juvenile justice programs. In preparing this budget, each Federal Government program manager, agency head, or department head with responsibility for any Federal juvenile crime control or juvenile offender accountability program shall submit the budget request of the program, agency, or department to the Administrator at the same time as such request is submitted to their superiors. In turn, the Administrator shall certify in writing as to the adequacy of such a budget request. If the Administrator does not certify a budget request as adequate, he must include an initiative or funding level that would make the request adequate. Furthermore, the Administrator shall request the head of a department or agency to include funding requests for such certifications in the budget submission of the department or agency. In addition, the Administrator may require other Federal departments and agencies engaged in any activity involving Federal juvenile justice to provide the Administrator with such information and reports, and conduct such studies and surveys, as the Administrator determines to be necessary.

3. *Section 303—Juvenile Crime Control and Juvenile Offender Accountability Incentive Block Grants.*—The key component of this title, and, indeed of the bill that the Committee recommends, is the Juvenile Crime Control and Juvenile Offender Accountability In-

centive Block Grants. The incentive block grants provide $500 million a year for five fiscal years to the States to fight juvenile crime. To enhance the flexibility of the States, the incentive block grants can be used for a broad array of permissible purposes.

Requirements:

In order to receive the block grant, States have to meet certain requirements designed to increase accountability in their juvenile justice systems.

While these requirements must be met, it is the Committee's intent that the States be given an adequate amount of time to meet them. Under section 205(c), States are required to make reasonable efforts, as certified by the Governor, to comply with the new requirements by July 1, 2000. Moreover, the Committee intends that States have maximum flexibility in meeting the requirements for funding under the block grant program.

The first requirement is that a juvenile age 14 or older may be prosecuted as an adult under State law for an act that would be a serious violent felony if committed by an adult. This requires only that States prosecute a juvenile 14 or older as an adult for some serious violent felony, as opposed to all serious violent felonies. It is estimated that, currently, 49 States can prosecute a juvenile 14 or older as an adult for some crimes and thus meet this requirement.

The second requirement is that the State establish graduated sanctions for juvenile offenders. Graduated sanctions ensure a punishment for every delinquent or criminal act and escalate the sanction with the severity of the offense and with the commission of each subsequent, more serious delinquent or criminal act. Unfortunately, in many jurisdictions today, juveniles can be adjudicated repeatedly for separate crimes without receiving any punishment. It is the Committee's view that such penalty-free sentencing creates the perception in some juveniles that they will not be punished for any crime, no matter how serious it may be. That perception, the Committee believes, leads juveniles to commit more serious and violent crimes.

The Committee recognizes that graduated sanctions can include many forms, including community service for minor crimes, electronically monitored home detention, restriction, as well as more traditional punishments such as incarceration. The Committee recognizes that a general assessment of the degree to which graduated sanctions are implemented is sufficient for compliance.

The third requirement will establish a national database for juvenile felony records. This provision requires States to fingerprint and photograph juveniles who are arrested for, or charged with, a crime of violence or an act that would be a felony if committed by an adult, and to make the finger prints and photographs available through existing national criminal databases. The States are also required to maintain juvenile records that are equivalent to adult records, and to make those records available to law enforcement agencies, school officials, and courts in any jurisdiction. States that are among the 5 percent of States with the lowest violent crime arrest rates for juveniles are exempt from this requirement.

It is the Committee's intent that juvenile felony records be available to law enforcement, school officials, and courts throughout the Nation. Specifically, it is the Committee's intent that records be available to arresting authorities. Additionally the Committee intends a sentencing judge have access to a defendant's prior juvenile felony record for sentencing purposes. The Committee believes that a national database is necessary because juveniles today are more mobile than ever before. Without a national database, it is difficult, if not impossible, for a State to determine what felonies a juvenile may have committed in another State. The Committee further finds that only the Federal Government can operate a national recordkeeping system, but that doing so requires the active cooperation and assistance of the States.

Information is the lifeblood of the criminal justice system. For example, law enforcement authorities long have believed that information about the tendencies and modus operandi of suspects is necessary in any successful investigation, and that having complete data about the criminal history of a convicted defendant is indispensable to setting sound sentencing policy. As the result, the criminal justice experts long have believed that comprehensive information about individuals is necessary for the fair, efficient, and fruitful operation of the adult criminal justice process.

The opposite principle, however, historically has permeated the juvenile justice system. Secrecy, rather than openness, has been a hallmark of juvenile justice proceedings and recordkeeping practices. For example, juvenile criminal records generally are inaccessible to, or are rendered unusable by, judges at sentencing. As the result, judges may be forced to sentence juvenile offenders without knowing whether the particular minor standing at the bar is a first time offender or ninth time loser. That practice stems from a belief that juvenile miscreants should not be branded (for example) with a scarlet "F" (for felon) or "D" (for delinquent) because of a youthful indiscretion. The rationale for justifying confidentiality in part rests on the assumption that minors are unable fully to appreciate the consequences of their actions, due to their emotional immaturity, and also that opening juvenile records to public scrutiny would be jeopardizing a minor's career prospects, needlessly scarring him or her for life.

That policy may have been sound during a time when fewer juveniles committed felonies and the crimes that juveniles committed were less serious than the crimes that society has witnessed over the past decade. Continuation of the traditional policy favoring the secrecy of juvenile records therefore presents a potential danger for the police officer on the street, for community officials, and for the public. Moreover, this risk will not fade into history as juveniles mature into adults. On the contrary, the danger will continue as long as individuals whose past criminal record of violent or serious offenses is not revealed to criminal justice agencies, including the courts, because the earlier offenses were committed when the offender was a juvenile.

An individual State's traditional policy favoring secrecy also is one that can have a spillover effect in neighboring jurisdictions. For example, many States are confronted with mobile juvenile offenders, especially members of criminal gangs, who visit their violent behavior on new communities, oftentimes far from their State of origin. States such as Illinois, Arkansas, and Utah, for example, have been victimized by gangs that trace their lineage to gangs in Los Angeles, CA. Too often residents of localities are endangered because local officials are unable to learn the past criminal history of an individual by obtaining access to juvenile records indicating prior violent history. As the result, such jurisdictions are unable to make the best decisions to protect the public.

To be sure, many States are improving their juvenile record systems. But there is still a long way to go. The recordkeeping provisions of this bill contemplate a juvenile record system that is integrated into existing adult systems. Meeting the requirements of this provision does not require building new juvenile records systems that will duplicate the States' adult record systems; that would be both expensive and counterproductive, since it would not allow States to use existing hardware, and may require separate computer access. Also, juvenile fingerprint and photograph requirements apply only to juveniles arrested for a crime of violence or an act that, if committed by an adult, would be a felony. Accordingly, not all juvenile offenses are required to be reported.

In practical terms, the committee believes that the requirements imposed by this provision will not be unduly burdensome for the States. For example, criminal history information need not actually be transmitted to the Federal Bureau of Investigation; rather, it can be stored in the States' computer records files and repositories for possible access by the FBI. Compliance with the recordkeeping mandate of this law requires States to "make reasonable effort" to improve their records systems by the year 2000. State Governors will certify whether reasonable efforts are being made to improve juvenile record keeping.

Additionally, the Committee notes that States that expunge juvenile records for certain offenses need not modify their expungement laws in order to qualify for the incentive block grant. The Committee is concerned primarily with the availability of records of conviction for appropriate uses inter- and intra-State, more than with the legal effect of that conviction. Thus, States that expunge juveniles' criminal records in certain circumstances—that is, nullify the legal effect of the conviction—may continue to do so and still qualify for the Federal incentive block grant, so long as all criminal records—including those that are expunged—are kept and made available as required by S. 10.

Finally, the Committee notes that it does not intend this requirement to alter the manner in which criminal history records are presently maintained or disseminated, nor to require separate systems or procedures for juvenile records. In particular, it is the Committee's intent that juvenile criminal records required to be maintained and disseminated under this requirement are to be handled in the same manner as equivalent adult records. For instance, if adult arrest or criminal history records are not physically sent to the FBI, but rather are sent to a State criminal history repository accessible to the FBI, handling covered juvenile records in a like manner will satisfy this requirement.

The fourth requirement modifies existing OJJDP mandates concerning the housing of juveniles in adult facilities at the State and local level. This requirement provides a protective floor by ensuring that no juvenile alleged or determined to be delinquent can be detained or confined in any institution in which the juvenile has prohibited physical contact with adult inmates, or in which an adult inmate and a juvenile can engage in sustained oral communication for more than 72 hours. This requirement replaces the current "sight and sound" and colocation mandates that JJDPA imposes on the States. It is the Committee's belief that these current mandates are antiquated, inflexible, and, on the whole, counterproductive.

These mandates have had unforseen, negative consequences. Patricia West, Secretary of the Virginia Department of Public Safety, testified concerning the negative consequences of the colocation and sight and sound mandate. Because many communities cannot afford separate juvenile facilities, West testified that law enforcement officers often must drive for hours to transport juvenile delinquents to the nearest available juvenile facilities to comply with the mandates. If not forced to do this, West noted, such officers would otherwise be patrolling the streets. Also, transporting juveniles to available juvenile facilities to comply with these mandates often requires juveniles to be detained far from their families and homes. Worse yet, in many parts of the Nation, law enforcement officers simply cannot afford to transport juveniles to an available juvenile facility. Consequently, many juveniles are simply released because of the mandates. Such juveniles are released even though available space exists in adult jails. The committee heard similar criticisms about the colocation and sight and sound mandates from law enforcement officials across the Nation. For example, Sheriff Ted Sexton of Tuscaloosa, AL, testified that these mandates, couple with a shortage of juvenile detention facilities, has led to a revolving door policy for juvenile offenders.

The sight and sound mandate and its implementing regulations have placed an unrealistic burden and expense on State and local governments. Occasional violations, particularly in booking areas and hallways, are inevitable and not necessarily harmful to juveniles. Moreover, sight and sound regulations that prevent staff from monitoring adult and juvenile inmates on the same shift are particularly burdensome. For example, Sheriff Bill Franklin of Elmore County, AL, testified that the sight and sound mandate requires his department to hire 5.5 additional staff members per 8 juveniles incarcerated.

It is the Committee's belief that by making it so difficult to detain juvenile criminals, these mandates have lowered the deterrent effect of incarceration for juvenile delinquents. It is the Committee's intent to replace these mandates. The new requirements in S. 10 give State and local governments the flexibility they need to address the alarming increases in juvenile crime. At the same time, the new requirements adequately protect juveniles from abuse by adult inmates.

This revised mandate strictly prohibits physical contact between juvenile and adult inmates at all times. But it does allow juveniles to be housed in adult facilities where the juvenile can hear adult inmates for a maximum of 72 hours. A common example of this scenario is a rural jail in which adult inmates are housed on the second floor, and juveniles inmates are housed on the first floor. In this situation, juveniles inmates could hear the adult inmates. Under the revised mandate, this scenario would be permissible for 72 hours. Also, under this revised mandate juveniles could be placed in adult facilities indefinitely, provided that juveniles and adults cannot engage in sustained oral communication, and there is no prohibited physical contact with adults. It is the Committee's belief that State and local authorities need this extra flexibility to detain juveniles in adult facilities, provided they are sufficiently protected from adult inmates. It is also the Committee's belief that State and local officials will operate State and local jails and prisons in a responsible manner. Nothing in this legislation addresses or regulates the manner in which juveniles who are tried as adults by the States are detained. Juveniles tried as adults shall be detained solely according to State law.

The fifth requirement is that the States establish local advisory groups that include participants in every phase of juvenile crime control at the local level. One main purpose of this provision is to ensure that all the key participants in juvenile crime control at the local level communicate and cooperate with one another. The local advisory group is required to conduct a thorough assessment of the case processing from arrest through adjudication by the juvenile court, and to effectuate the necessary changes to make the juvenile justice system more efficient and to ensure the utilization and effectiveness of graduated sanctions.

The Committee intends this requirement to be fully integrated with the use of graduated sanctions. Many communities across the Nation have experienced great success addressing juvenile crime through cooperative programs involving all public and private participants in the juvenile justice system. For instance, the Comprehensive Communities Program in place in Salt Lake City, UT, is undertaking a crime prevention and control strategy emphasizing partnerships between all government agencies, schools, and nonprofit service providers. At the neighborhood level, Community Action Teams, consisting of school officials, prosecutors, courts, and service providers, work together and intervene to stop juvenile crime before it becomes serious. The Committee intends that maximum flexibilty be given to communities in establishing an appropriate local advisory group, suited to local needs.

The sixth requirement is that States establish a policy of drug testing (including followup testing) juvenile offenders upon their arrest for any offense within an appropriate category of offenses designated by the Governor of the State. The Committee expects and hopes that Governors will designate most, if not all felonies, as well as certain misdemeanors, such as prostitution, auto theft, and status offenses, such as underage use of alcohol or possession of illegal drugs, that indicate likely drug abuse, as "appropriate" categories to test.

The Committee believes that drug testing, particularly random followup testing, is one the most effective rehabilitative and diagnostic tools available to law enforcement. The Committee found that the typical fee charged by a commercial laboratory for a single drug tests is roughly $5. The Committee believes that it is vital to determine whether a juvenile is committing crimes to support a drug addiction.

The seventh requirement is that amounts made available under the incentive block grants are used to supplement and not supplant State and local funds spent on juvenile justice. In other words, State and local governments cannot use the Federal funds under this section to replace State and local funds spent on juvenile justice. It is the Committee's intent that the incentive block grants constitute additional resources to help the States fight juvenile crime. The Committee is concerned that, without this requirement, existing State and local resources for juvenile justice programs may be diverted to other uses. The Committee intends and expects that, when dispensing grant funds under this title, States and local governments will consider how programs will be maintained upon the reduction or termination of Federal assistance.

Distribution to eligible applicants

This provision requires that 60 percent of the funds from incentive block grants be used by the States on three designated areas. The first area involves graduated sanctions and the construction or remodeling of juvenile detention facilities. At least 35 percent of the incentive block grant must be used by the States on graduated sanctions or the construction or remodeling of facilities for the short-term or long-term confinement of juveniles. If the incentive block grant is used to build juvenile detention facilities, it shall constitute not more than 50 percent of the cost, with the State or local government contributing at least the remaining 50 percent. It is the Committee's belief that a matching grant program with State and local governments will be most effective for constructing or remodeling juvenile detention facilities. Also, it is the Committee's intention that no funds from the incentive block grant be used for construction, renovation, or expansion of facilities used exclusively for adult offenders.

The second designated area is juvenile recordkeeping. At least 10 percent of the funds must be used to enhance the quality of juvenile recordkeeping pursuant to the requirements set forth in section 205(c)(3). It is the Committee's belief that, if funded at authorized levels, this provision will provide States with the necessary fiscal resources to upgrade their juvenile record keeping systems to satisfy the section 205(c)(3) obligation.

The third designated area is drug testing. At least 15 percent of the incentive block grant funds must be used to drug test juveniles upon arrest. It is the Committee's belief that at least 15 percent of these funds are necessary to test juveniles upon arrest and to conduct a series of followup tests as necessary.

Grants to Indian tribes

The Committee recognizes the unique relationship between the Federal Government and Indian tribes. The Committee has found that the JJDPA as currently formulated does not provide adequate resources to assist Indian tribes in addressing serious and growing juvenile crime and violence problems in Indian country.

While the overall crime rate in the United States has fallen in recent years, crimes committed within Indian country have increased. Over the past 5 years, the homicide rate in the United States decreased 22 percent, while Indian country homicides rose

87 percent. Juvenile gang activity in particular poses a unique threat to all jurisdictions, including Indian country. Studies conducted by Federal agencies, universities, and tribal governments reveal that criminal gang activity within Indian country has steadily increased over the past decade. In Arizona alone, a recent FBI study identified 177 gangs on 14 different reservations. This is a relatively new problem that has ominous potential for growth, in large part because of the lack of funding for tribal law enforcement and gang prevention and training programs. This greatly concerns the Committee.

The Committee notes that in April 1997 testimony before the Senate Committee on Indian Affairs, the Director of the Department of Justice's Office of Tribal Justice stated that "In the past, Indian communities have not received an adequate share of OJP [Office of Justice Programs] funds and assistance, largely because of poor communication between OJP components and tribal governments, and, in part, because funds are not directly available to tribes in the same manner that they are available to states." [33]

The Committee finds this situation to be unacceptable. The bill it recommends is intended to ensure adequate resources are directed toward addressing juvenile crime and violence in Indian country by setting aside from the block grant appropriations an amount for grants to tribes equal to the amount the tribes would be entitled to were their collective populations treated as a State. Grants from the funds set aside would be made directly to tribes by the Department of Justice.

The Committee believes that such direct funding is an improvement over the current system, in which tribes must go through State governments for funding. The Committee's recommendation would be less burdensome to the States, would ensure adequate funding is directed to tribal governments, and would benefit both tribal communities and surrounding State communities through an expected reduction of juvenile crime in Indian country. The Committee also notes that such direct grants to tribes are presently being made under the Violent Offender Incarceration and Truth in Sentencing Incentive Grant program.

4. *Section 304—State Plans.*—The Committee also recommends reauthorization, with some modification, of the formula grants previously administered by OJJDP. The application process for States to receive formula grants remains essentially the same. The Committee's recommendation does add flexibility to several of the grant eligibility requirements ("mandates"). For example, the bill recommended by the Committee provides flexibility under the mandate which currently prohibits the incarceration of status offenders. Status offenses are those offenses that would not be offenses if committed by adults, such as runaway status, curfew violations, and truancy. The Committee received substantial testimony that this mandate in particular impeded States' ability to protect both juveniles and the community. For instance, Patricia West, Secretary of the Virginia Department of Public Safety, testified before the Subcommittee on Youth Violence that:

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[33] Testimony of Thomas L. LeClaire, director, Office of Tribal Justice, before the Senate Committee on Indian Affairs, concerning Juvenile Justice Programs that benefit Indian communities (Apr. 8, 1997.)

> Localities need the ability to detain status offenders in a secure environment. Status offenders likely come from unstable home settings, and often pose a risk to themselves. Their availability for court hearings is jeopardized due to runaway behavior, and detainment of a runaway is desirable to facilitate assessment of, and treatment for, the underlying problems causing the runaway behavior. * * *
>
> A recent study by the Virginia Joint Legislative Audit and Review Commission of 3,000 juvenile court records found that over one-half of first time status offenders were rearrested and returned to the court service unit within a three-year period.
>
> Eighty-five percent of these noncriminal offenders who recidivate were later charged with an offense more serious than a status offense. We really need the flexibility to deal with these offenders when they have their first exposure to the court, and that would enhance our chances of a successful intervention.[34]

Additionally, Ms. Judy Nish, a parent from Marion, IA, testified that "the status offender mandate unreasonably interferes with efforts by conscientious parents to control the conduct of their children."[35] The Committee agrees with the views of the expert witnesses and citizens who testified on this matter, and includes provisions providing flexibility under this mandate.

The revised status offender mandate loosens current requirements by permitting the incarceration of status offenders for extended periods of time. The revised mandate, however, requires that after 24 hours, excluding weekends and holidays, status offenders must be removed from adult jails and placed in juvenile facilities. Due to the special problems presented by runaways, the bill permits runaways to be incarcerated for up to 14 days, upon written findings by the juvenile court that the behavior of the runaway has endangered his or her physical or mental well-being, that secure detention is necessary for the runaway's safety, and that the runaway is being detained only for as long as necessary to obtain a suitable placement. Other status offenders may be incarcerated for up to 3 days, so long as the court explains the reasons secure detention is necessary and other sanctions would be inadequate.

Persons who violate the Federal youth handgun law or similar State laws, as well as juveniles that have violated valid court orders, are not covered by these protections. Similarly, the bill retains the current law's blanket prohibition on incarceration of alien juveniles in custody and dependent, abused, and neglected children.

As recommended by the Committee, S. 10 also enhances the flexibility provided to States and localities under the current State Plan formula grant mandates relating to sight and sound separation of juvenile and adult inmates, and the colocation of juvenile and adult detention facilities. These mandates are discussed more fully elsewhere in this report, in the section describing the fourth requirement of the incentive block grants. As discussed in that section, it is the Committee's belief that the mandates in current law are antiquated, inflexible, and, on the whole, counterproductive. The reformed mandate recommended by the Committee is identical to the fourth requirement for State qualification for an incentive block grant, and provides a protective floor by ensuring that no juvenile alleged to be or determined to be delinquent can be detained or confined in any institution in which the juvenile has prohibited physical contact with adult inmates, or in which an adult inmate and a juvenile can engage in sustained oral communication for more than 72 hours.

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[34] Testimony of Patricia West, Virginia Secretary of Public Safety, before the Senate Subcommittee on Youth Violence of the Judiciary Committee, concerning "Fixing a Broken System: A Review of Office of Juvenile Justice and Delinquency Prevention Mandates" (May 6, 1997).

[35] Testimony of Judy Nish before the Senate Subcommittee on Youth Violence of the Judiciary Committee, concerning "Fixing a Broken System: A Review of Office of Juvenile Justice and Delinquency Prevention Mandates" (May 6, 1997).

In addition to relaxing the mandates with which States must comply in order to receive the formula grants, however, S. 10 makes one other major change to the State Plan Formula Grants: It requires 40 percent of the formula grant funds to be used on programs that employ graduated sanctions. It is the Committee's belief that graduated sanctions, by ensuring some penalty is given for even minor violations, deter juveniles from committing more serious violations. The Committee realizes that States must be given the flexibility to design programs that best employ graduated sanctions in their jurisdictions, and believes this reauthorization accomplishes this important goal.

5. *Research, Evaluation, and Dissemination.*—OJJDP was established in large part to be the Federal Government's research arm into juvenile delinquency and a resource to States on effective programs and techniques to address the problem. This meant that not only would OJJDP undertake its own research and evaluation efforts, but that it also would disseminate to the States the results of well-considered evaluation and research studies performed by others. Given the juvenile delinquency problem of the time, Congress was farsighted in the creation of the function. The Committee believes that, unfortunately, OJJDP has failed to fulfill the promise of determining effective programs. Indeed, the Committee believes that we know little more of what is effective today than we knew two decades ago, putting to one side how to address the very different youth violence problem that exists today. At the Youth Violence Subcommittee's oversight hearing in the 104th Congress, for instance, witnesses were able to identify only a few OJJDP-funded programs that had been evaluated to be effective. This was true notwithstanding OJJDP's publication of a list of programs purported to be effective, only a small number of which had ever been evaluated.

The Committee believes that it is an urgent priority that the research and evaluation mission that was intended for OJJDP 23 years ago actually be performed. Testifying at a related hearing during the 104th Congress, UCLA professor and criminologist James Q. Wilson noted that he has watched Washington struggle with the crime problem for 30 years, and "I think I can say that we know essentially no more today about how to deal with these problems than we knew 30 years ago, and if that were the state of affairs with respect to AIDS or influenza or smallpox or tuberculosis, it would be a national scandal." Professor Wilson went on to recommend that Congress set aside funding to discover, specifically, systematically, and scientifically, what works in the realm of crime prevention.[36]

The Committee agrees with Professor Wilson's assessment. Everyone knows that youth violence is a serious national problem, but little is known about successfully preventing those crimes or about strategies for early and effective intervention. Testifying before the Youth Violence Subcommittee during the 104th Congress, Professor Blumstein, of Carnegie-Mellon University, noted that existing research findings "reflect only a tiny portion of that we need to know to make effective policy and operational decisions" and that we are "at an extremely primitive stage of knowledge regarding violence." One major deficit in the existing research, he testified, is focus on one site or setting, rather than whether a particular approach can be generalized to a larger population base.

Numerous witnesses last Congress concurred that the primary responsibility for the operation and effectiveness of the juvenile justice system remains with State and local governments. Nonetheless, a consensus among witnesses developed that conducting research and evaluating programs designed to combat youth violence is a proper Federal function. Professor Blumstein concluded that the States are unlikely to focus on such a public good when its benefits would be dispersed so widely. Even if States did conduct such research, the results would not reflect the effectiveness of a program upon a broad range of populations, which is a critical research need. Further, only the Federal Government is likely to conduct such comprehensive research because of its cost, although economies of scale would be available at the Federal level.

To be sure, OJJDP currently conducts research, and some of the witnesses praised some of that research. Nonetheless, OJJDP emphasizes how much of its resources are returned directly to the States, implicitly recognizing that little of its budget is directed to research and evaluation. And the quality of much of its research work is subject to criticism. Dean Shwartz, former OJJDP Administrator, remarked that "OJJDP still does not have a focus and coherent research and development agenda. Because of this, resources have been squandered and little knowledge has been advanced in key areas."

Witnesses agreed not only that the quality of Federal research must be improved, but that the budget for such research must be increased as well. Professor Blumstein contrasted the OJJDP youth violence research budget of under $20 million with NIH's budget, which is nearly 1000 times larger. "It is clear that the research expenditures in this area are profoundly inconsistent with the magnitude of the problem, and with the resources committed to other comparably important National issues."

Witnesses appearing before the Subcommittee during the 104th Congress raised urgent and serious issues in youth violence research that would be appropriate subjects for Federal research efforts. Professor Blumstein discussed the paucity of information concerning the development of violent career criminals and how that development relates to family environments. Dean Shwartz agreed that little is known concerning the prevention of serious chronic and violent behavior. Professor Blumstein also listed as necessary research issues the effect of community conditions such as social isolation on juvenile violence, gang violence, drug markets, and gun markets. Additionally, research is needed into what intervention programs successfully socialize offenders, and how the juvenile justice system can control illegal guns and drugs. Dean Shwartz finds that research is needed into the effectiveness of applying adult sentencing practices on juveniles and in identifying effective programs, with reference to particular types of youth in particular circumstances.

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[36] Testimony of James Q. Wilson before the Senate Judiciary Committee on Federal law enforcement priorities; 104th Cong., 1st sess., Feb. 14, 1995, S. Hrg. 104-597.

In addition to directing research into basic questions such as criminal history progression and the effect of trying youths as adults, witnesses such as Professors Thornberry and Elliot agreed that rigorous evaluation research should be conducted on various prevention programs to determine if such programs are effective. Professor Elliot believes that too much of what OJJDP spends on evaluation does not actually determine the effectiveness of programs, but only whether a program delivers the services that it agreed to provide in its grant application. The GAO's Laurie Ekstrand found that the evaluations OJJDP conducted for its discretionary grants were of exactly that process-oriented character. Too often, recipients of Federal prevention grants make well meaning but unsubstantiated claims that their programs are successful. The Committee agrees with Professor Wolfgang that self-congratulatory anecdotal claims of success should be discounted.

Peer-reviewed evaluations are the only means of determining which prevention programs are actually worth funding. To study effectiveness, individual programs need to be tested in different locations with different youths and different staff for a lengthy time period. Such evaluation is expensive. The Subcommittee received testimony that "the evaluations we are talking about here cost as much as the annual budget for most of these programs." Yet, less comprehensive evaluations will produce little new knowledge of successful approaches to reduce what is perhaps the country's most significant problem.

Of course, not all research will produce evidence of successful approaches. As Professor Thornberry noted, however, identifying programs that do not work is as important as identifying those that do. Indeed, some research in this area as identified programs that are not only not effective, but are actually harmful. States need to know which programs their formula grants should not support.

To do so, Dean Shwartz and Professor Wolfgang maintain that OJJDP needs to do a better job in disseminating to States the result of research and evaluation efforts. Dean Shwartz mentioned that OJJDP should provide the States with more policy-relevant information, such as the studies that suggest that juveniles who go to adult prisons are more likely to commit crimes upon their release than similarly situated juveniles who are sent to juvenile facilities. Once effective programs are identified, Professors Elliot and Wolfgang suggested that States be given incentive to implement successful programs and not to fund unsuccessful ones.

Professors Blumstein and Elliot also stressed the importance of Federal Government's provision of training and technical assistance to the States, once it has been determined that there are effective techniques and evaluations that have been carried out. Professor Elliot mentioned that OJJDP now has eight grants for data collection, and funds 24 agencies for technical assistance, which should be better coordinated.

The Committee has incorporated many of the witness's recommendations in the legislation it has reported. The bill the Committee recommends makes numerous changes to the research and evaluation component of OJJDP. Most of these changes were also included in S. 1952, which the Judiciary Committee reported in 1996, during the 2d session of the 104th Congress. The purpose of these changes is to ensure that the programs formulated under Federal youth violence grants can be scientifically and independently evaluated to determine their effectiveness. The Committee recommendation does not provide sufficient funds to evaluate all formula grant funded programs, but the Administrator should evaluate a mix of programs in a variety of locales among a diverse group of youths so that knowledge can be gained about the evaluation of types of programs as well as individual approaches. The Committee's desire is to enhance the professionalism and quality of work product conducted by NIJJDP, with NIH, NSF, and similar Federal research agencies as models. The Committee notes that there are a number of independent organizations, such as the Hamilton Fish Institute on Violence in Schools and Communities, that conduct rigorous, scientific research on juvenile crime and public safety nationally.

6. *Section 305—Grants to Prosecutors.*—The Committee believes that the administration of State juvenile justice systems will be enhanced if additional resources are made available to the States for the prosecution and adjudication of juvenile criminal and delinquency cases. The bill the Committee recommends includes a new section for the JJDPA, providing Federal grants to States for use by prosecutors, courts, and public defenders in the adjudication of juvenile criminal and delinquency cases.

7. *Disproportionate Minority Confinement.*—Section 223(a)(23) of the JJDPA Act (codified at 42 U.S.C. 5633(a)(23)) mandates that, in order to receive block grant funding, State plans must "address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population." That requirement focuses on the number of minorities in the judicial system compared to the general minority population and does not take into account the actual number of crimes committed by minorities.

OJJDP has promulgated regulations to interpret this provision. In order to comply with the statutory language, the OJJDP requires States to complete an Identification, Assessment, and Intervention Phases pursuant to section 31.303(j) of the OJJDP Formula Grants Regulation.[37] OJJDP maintains that "the DMC core requirement neither requires nor establishes numerical standards or quotas in order for a State to achieve or maintain compliance."[38] In essence, the OJJDP regulations require the following: First, each State must provide quantifiable documentation in its fiscal year 1994 Formula Grant Plan (and all subsequent Multi-Year Plans) to determine whether disproportionate minority confinement in fact exists. Second, each State's Formula Grant Plan must provide a completed assessment of disproportionate minority confinement that, at a minimum, must identify and explain differences in arrest, diversion, and adjudication rates; court dispositions other than incarceration; the rates and periods of prehearing detention in and dispositional commitments to secure facilities of minority youth in the juvenile justice system; and transfers of juveniles to adult court. Third, where disproportionate minority confinement has been demonstrated, each State's fiscal year 1995 Formula Grant Plan must provide a time-limited plan of action for reducing the disproportionate confinement of minority juveniles in secure facilities. The intervention plan shall be based on the results of the assessment, and must include, but not be limited to diversion programs (such as police diversion programs), prevention programs, reintegration programs designed to reduce recidivism rates, policy/procedural reform, and staffing/training assistance that will positively impact minority youth.

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[37] 28 CFR, pt. 31, Federal Register, Tuesday, Dec. 10, 1996, vol. 61, No. 238, p. 65132–65139.

In 1991, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) examined the role that minority status may play in the processing of youths through the juvenile justice system.[39] Research conducted by Pope and Feyerherm on behalf of the OJJDP summarized existing literature on disproportionate minority confinement and found that approximately two-thirds of all published studies show evidence of disproportionate minority confinement, while one-third did not.[40] On June 25, 1991, the Juvenile Justice

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[38] U.S. Department of Justice, "Office of Juvenile Justice and Delinquency Prevention Formula Grants Regulation Revision Summary," December 1996, p. 2.

[39] H. Rpt. 104–783, "The Juvenile Crime Control and Delinquency Prevention Act of 1996," p. 31.

[40] Pope, C. and W. Feyerherm, "Minorities in the Juvenile Justice System," Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Clearinghouse, 1992;

> Disproportionate minority confinement is defined by OJJDP as a ratio of "the share of the juvenile justice population that is minority relative to the share of the at-risk population that is minority." Since the late 1960's, scores of researchers have published studies assessing the extent to which disproportionate minority confinement exists within the juvenile justice system. Approximately two thirds of all published studies found evidence of disproportionate minority confinement (Pope and Feyerherm, 1992). One third of the studies, however, did not find evidence of disproportionate minority confinement. Researchers note that inherent methodological difficulties contributed to inconsistent findings. Another factor contributing to the inconsistent findings may be that most disproportionate minority confinement studies were restricted to one stage in system processing (Bishop and Frazier, 1988). Such an approach, several authors contend, fails to measure the "cumulative disadvantage" to minority youth within a juvenile justice system. Although race may have a small, statistically insignificant effect on decision making at stages, race may still have a significant effect on the juvenile justice system outcomes overall (Zatz, 1987).
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> Approximately one-third of all disproportionate minority confinement studies found an overall pattern of disproportionate minority confinement, while an equal proportion of studies found Disproportionate minority confinement only at particular points within the juvenile justice system (Pope and Feyerherm, 1992). Many researchers believe that Disproportionate minority confinement is most pronounced at the "front end" of the juvenile justice system, yet few Disproportionate minority confinement studies have focused on the front end (Conley, 1994). Measuring the racial bias that occurs when police officers decide which juveniles to question—or when citizens, social workers, and school officials decide to alert authorities to delinquent behavior—is fraught with methodological challenges (Sampson, 1986).

Subcommittee, chaired by Senator Kohl, held hearings on the overrepresentation of minority youth in the juvenile justice system. At the hearing, Larry LeFlore of the Institute of Juvenile Justice Administration and Delinquency Prevention, testified that "[o]verrepresentation of minorities exists at every stage of the juvenile justice system."[41] While no specific statistics were provided, subsequent OJJDP reports have found statistical evidence of overrepresentation. The most commonly cited statistic is that although African-American juveniles age 10 to 17 constitute 15 percent of the total population of the United States, they constitute 26 percent of juvenile arrests, 32 percent of delinquency referrals to juvenile court, 41 percent of the juveniles detained in delinquency cases, 46 percent of the juveniles in correctional institutions, and 52 percent of the juveniles transferred to adult criminal court after judicial hearings.[42]

In the 1992 amendments to the Juvenile Justice and Delinquency Prevention Act of 1974, Congress included the disproportionate minority confinement language in an attempt to address these statistics. In response to the legislation, the OJJDP commissioned the "DMC Initiative." Through a competitive process, the OJJDP selected five States—Arizona, Florida, Iowa, Oregon, and North Carolina—to serve as pilot States for developing disproportionate minority confinement intervention programs. The results of these State pilot programs varied and are summarized below. Upon termination of the Disproportionate Minority Confinement Initiative, the OJJDP issued regulations requiring States to identify statistical instances of disproportionate minority confinement, assess the causes of disproportionate minority confinement, and intervene through diversion, prevention, and reintegration programs, as well as through changes in policy, staffing, and training.

State compliance with the disproportionate minority confinement mandate has varied. Nine States have completed the identification phase of the disproportionate minority confinement initiative, and they found no evidence of disproportionate minority confinement.[43] Thirty-eight States have completed the identification and assessment phases and are implementing the intervention phase.[44] Eight other States are still in the identification and assessment phases of the plan.[45] States have spent a total of $32,741,595 (16.9 percent of total compliance spending) to comply with the disproportionate minority confinement mandate over the past several years.[46]

The Committee believes that the results of the disproportionate minority confinement initiative pilot programs are mixed and raise

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U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, "Evaluation of the Disproportionate Minority Confinement (DMC) Initiative, North Carolina Final Report," May 1996, at I-1, 2.

[41] S. Hrg. 102–304, "Minority Overrepresentation in the Juvenile Justice System," hearing before the Subcommittee on Juvenile Justice of the Committee on the Judiciary, U.S. Senate, June 25, 1991, at 18.

[42] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, "Juvenile Victims and Offenders: A National Report," August 1995, at 91.

[43] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, "1995 Compliance Monitoring Summary" (analyzing performance of American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Maine, New Hampshire, Puerto Rico, Republic of Palau, Vermont, Virgin Islands).

[44] Id.

[45] Id.

[46] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, "DMC Spending by State and Year," July 24, 1997.

some serious concerns about the nature of the disproportionate minority confinement mandate. The Arizona pilot project confronted a "lack of support from key individuals or groups."[47] Some government officials did not support the DMC Initiative because they believed it represented a subtle accusation or racism.[48] Law enforcement officials also construed the disproportionate minority confinement initiative as an accusation that Arizona's law enforcement agencies are permeated by racists.[49]

In Florida, the pilot program was resisted by juvenile justice professionals. This resistance was due in large measure to the juvenile justice professional's belief that those youths who were incarcerated needed to be confined for the safety of the community—they believed that the "right kids" were being confined. The Florida Final Report notes that despite serious concerns, these professionals have "continued to move forward with developing constructive alternatives to court and confinement" for minority youth offenders.[50] More resistance is expected, however, as juvenile justice professionals undergo cultural sensitivity training in 1997 as part of the intervention phase of the initiative.[51]

The Iowa pilot project found that it was difficult to obtain a consensus as to the causes of disproportionate minority confinement, and that different analyses of the causes of disproportionate minority confinement led to distinct solutions:

> One explanation was that the causes of DMC are chiefly due to the juvenile justice system reflecting the racism of the community at-large to the disadvantage of minority youth. Holders of this view felt that the justice system could be reformed to reduce DMC, and that if racism were to somehow disappear, so would DMC. The other explanation was that DMC is caused by socio-economic factors beyond the control of the juvenile justice system and government. Holders of this view felt that delinquents are in the system because of what they do, not because of their race. Many of them felt that if racism were to disappear, youth from the lowest economic class would continue to be disproportionately confined.
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> The disagreement is significant because the two explanations imply very different solutions. The first explanation requires that the juvenile justice system change the way it operates and invest in cultural sensitivity and diversity. It requires a re-examination of practices including "objective" processes and guidelines. It also implies the need for family advocacy for minority youth dealing with a system where race impacts outcomes. The second explanation implies the need for prevention before the youth engage in the behaviors that lead to the juvenile justice sys-

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[47] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Evaluation of the Disproportionate Minority Confinement (DMC) Initiative, Arizona Final Report, May 1996, at III-16.

[48] Id.

[49] Id.

[50] Id.

[51] Id.

tem. Holders of this view emphasized family strengthening, measures to keep youth in school, and parent skills training for families of at-risk minority youth.[52]

As other States have attempted to implement the disproportionate minority confinement initiative, they have encountered problems similar to those of the pilot group. "The State of Virginia has spent over $800,000 on reports alone required for compliance with this mandate. While they have found that a disproportionate number of minorities have been incarcerated compared to their percentage in the general population, they have also found this can be attributed to factors other than race. Such factors include economic conditions, family situation, severity of crime, and the number of past offenses. They have not found that sentences have been given out or that penalties have been enhanced based on race."[53]

The view of Virginia lawmakers has been supported in part by the OJJDP. The OJJDP recently stated that "overrepresentation can result from factors other than discrimination. Factors relating to the nature and volume of crime committed by minority youth may also explain disproportionate minority confinement."[54]

Despite OJJDP'S effort at clarification, current law can be interpreted to require States to release violent minority youths, or to refrain from arresting delinquent youths if their numbers in confinement exceed their numbers in the general population. On March 12, 1996, Jerry Reiger, Director of the Oklahoma Department of Juvenile Justice, in testimony before the Senate Subcommittee on Youth Violence, discussed a study published in late 1993 analyzing this issue in the State of Oklahoma. According to that study, African-American juveniles represented 9.6 percent of the juvenile population in Oklahoma but comprised 25 percent of all juvenile arrests. Native American juveniles, on the other hand, comprised 11.2 percent of the juvenile population yet only 5.1 percent of the total arrested. According to Mr. Reiger: "Quotas are not the answer. Youth are placed in a system based on their acts, not their race. We do not plan to go out and arrest more Native American youth to get their numbers up, nor will we cease arresting African-American juveniles who commit crimes. Youth are arrested and adjudicated based on their acts, not their race."[55] Reiger suggested that the right approach to the problem of disproportionate minority confinement is "to ensure that prevention monies get to the right neighborhoods and families so we can actually reduce the percentage of African-Americans coming into the system."[56]

By looking past socioeconomic conditions in its formulaic determination of "overrepresentation," the disproportionate minority confinement mandate carries the implicit assumption that the juvenile justice system discriminates against minority youth. It ignores the fact that crime may predominantly be a socioeconomic phenomena that afflicts poor youth in large cities, where minorities are geographically concentrated. As State after State has sought to implement the disproportionate minority confinement initiative, it has become increasingly clear that a consensus cannot be reached as to the causes of disproportionate minority confinement. Some believe that disproportionate minority confinement is a result of discrimination on the part of justice system decisionmakers, while others suggest that disproportionate minority confinement stems from socioeconomic factors. No research has emerged to answer this question determinatively. Accordingly, the outcome of disproportionate minority confinement intervention programs is highly sensitive to the identification and assessment phases of the investigation, not to mention the personal and political biases of those who make identifications and assessments.

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[52] Evaluation of the Disproportionate Minority Confinement (DMC) Initiative, Iowa Final Report, May 1996, at V-7, 8.

[53] H. Rpt. 104-783, "Juvenile Crime Control and Delinquency Prevention Act of 1996," at 31.

[54] U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: A National Report," August 1995, at 92.

[55] H. Rpt. 104-783, at 31-32.

[56] S. Rpt. 104-369, "Juvenile Justice and Delinquency Prevention Act of 1996," at 15.

As pilot program studies have evidenced, confusion over the causes of disproportionate minority confinement has led to undesirable reactions in the juvenile justice community. Many juvenile justice professionals, justifiably, have felt wrongly accused of racism. The imposition of cultural sensitivity training for these individuals may only serve to heighten their sense of indignation. Others have felt that the juvenile justice system is being blamed for a socioeconomic problem that it has neither the resources nor the capability of changing.

The Committee believes that a better approach is to target prevention monies to those geographic areas with the highest rates of crime. This approach will help to create a colorblind juvenile justice system that places individual rights above group rights and forces criminal offenders to be responsible for their individual actions. At the same time, it will target those funds where they are most needed and where they might do the most good. For this reason, the Committee recommends replacing the current DMC mandate with a requirement that prevention funding be so targeted. The Committee notes that while this requirement applies only to Part B funding, it is the Committee's hope that prevention funding under the block grant might be similarly targeted at the choice of the States.

Further, it is the Committee's belief that the disproportionate minority confinement mandate has created prohibitively expensive regulatory requirements on the States. As mentioned earlier, the State of Virginia alone spent more than $800,000 on reports to comply with this mandate. More generally, according to the GAO, approximately 70 percent of the jurisdictions at one time or another have devoted 100 percent of available title II formula grant funds toward meeting the four core requirements, including the disproportionate minority confinement mandate. The Committee believes that the millions of dollars currently spent to comply with the disproportionate minority confinement mandate would be better spent on traditional law enforcement and prevention programs targeted toward juveniles.

Moreover, given recent Supreme Court precedent, the Committee is concerned about the constitutionality of the disproportionate minority confinement mandate. Recent cases such as *Adarand Constructors, Inc.* v. *Pena,*[57] *Bush* v. *Vera,*[58] *Miller* v. *Johnson,*[59] and

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[57] 515 U.S. 200 (1995).

[58] 116 S. Ct. 1941 (1996).

[59] 115 S. Ct. 2475 (1995).

Shaw v. *Reno*,[60] have subjected government racial preferences and classifications to the strictest judicial scrutiny. It is the Committee's belief that it is difficult, if not impossible, to withstand strict judicial scrutiny. Consequently, it is the Committee's intent to avoid suspect racial classifications completely and, instead, to target prevention monies to those geographic areas with the highest rates of crime.

8. *The GREAT (Gang Resistance Education and Training) Program.*—The GREAT Program was initiated in Fiscal Year 1992 through a partnership between the Phoenix Police Department and the Bureau of Alcohol, Tobacco, and Firearms (ATF). It was subsequently expanded by section 32401 of the Violent Crime Control and Law Enforcement Act of 1994.[61] The GREAT Program seeks to deter gang involvement and to assist children to become responsible members of their communities by setting goals for themselves, resisting negative pressures, learning how to resolve conflicts, and understanding how gangs affect the quality of their lives.

This section makes some much needed improvements in the GREAT Program. To start, this section will help ensure that a greater percentage of GREAT Program funds reach localities than is required by current law. Current law allocates 50 percent of appropriated funds to ATF for salaries, expenses, and associated administrative costs for operating and overseeing GREAT projects. The Committee believes that this amount is grossly out of line. This section reduces ATF's oversight funding to 15 percent of appropriated funds. This section also reforms the process by which communities will be selected for GREAT programs. After the beginning of fiscal year 1998, each community identified for a GREAT project shall be selected by the Secretary of the Treasury on the basis of the following factors: (1) the level of gang activity and youth violence in the area in which the community is located; (2) the number of schools in the community in which training would be provided under the project; (3) the number of students in a school system who would receive training; and (4) a written description from officials of the community explaining the manner in which funds made available to the community would be allocated. The amendment does not require the termination of any projects selected prior to the beginning of fiscal year 1998.

G. TITLE IV

1. *Section 401—2,500 Boys and Girls Clubs Before 2000.*—The Committee recommends this section to address the continuing initiative to ensure that, with Federal seed money, the Boys and Girls Clubs of America are able to expand and serve an additional 1 million young people through at least 2,500 clubs by the year 2000.

The 104th Congress enacted legislation authorizing $100 million in Federal seed money over five years to establish and expand Boys and Girls Clubs in public housing and distressed areas throughout our country.[62] This section streamlines the application process for these funds, and it permits a small amount of the funds to be used to establish a role model speakers program to encourage and motivate young people nationwide.

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[60] 509 U.S. 630 (1993).

[61] Public Law 103–322, 108 Stat. 1902 (Sept. 13, 1994).

[62] Section 401 of the Economic Espionage Act of 1996, Public Law 104–294, 110 Stat. 3496 (Oct. 11, 1996).

The Committee notes that its recommendation provides seed money for the construction and expansion of clubs to serve our young people. This is "bricks and mortar" money to construct clubs. After they are opened, they will operate without any significant Federal funds. The Committee believes that this is a model for the proper role of the Federal government in crime prevention.

Boys and Girls Clubs are among the most effective nationwide programs to assist youth in developing into honest, caring, involved, and law-abiding adults. Researchers at Columbia University found that public housing developments in which there was an active Boys and Girls Club had a 25 percent reduction in the presence of crack cocaine, a 22 percent reduction in overall drug activity, and a 13 percent reduction in juvenile crime. Members of Boys and Girls Clubs also do better in school, are less attracted to gangs, and feel better about themselves.

The Committee believes that the reason Boys and Girls Clubs work is that they are locally run and depend primarily on community involvement for their success. Indeed, the Committee notes that Federal efforts are already paying off. Using over $15 million in seed money appropriated for fiscal year 1996, the Boys and Girls Clubs of America opened 208 new clubs in 1996. These clubs are providing positive places of hope, safety, learning and encouragement for about 180,000 more kids today than in 1995.

This section also includes a provision to provide Federal support to build three flagship club facilities in the Nation. These flagship clubs will serve as a model for all Boys and Girls Clubs and will provide hope and unparalleled facilities for thousands of youth. Specifically, the provision recommended by the Committee authorizes $15 million to cover part of the cost of constructing and equipping three state-of-the-art Boys and Girls Club facilities across the Nation. The Committee believes that this Federal support will free up private sector funds to operate the facility, and to bring the finest professionals to help thousands of at-risk youth and their families avoid a life of crime, violence and drugs.

The Committee intends that a National Capital Flagship Facility, under the auspices of the Boys and Girls Clubs of Greater Washington and in concert with the Boys and Girls Clubs of America, be among the flagship facilities established under pursuant to this section. The Committee intends this and the other flagship clubs to serve as national prototypes for programs to serve at-risk youths and their families living in the most troubled urban and rural areas of the United States, including in Indian country.

H. Title V

SUBTITLE A

1. *Section 501—Definition of Unit of Local Government.*—The Committee recommends adopting a revised definition of the term "unit of local government" for the purpose of qualification for Federal law enforcement assistance in order to address a problem concerning the State of Louisiana. In Louisiana, individual Sheriffs are independent taxing authorities with law enforcement authority,

and have responsibility independent of other local governmental entities. Recent Department of Justice interpretation of relevant Federal grant programs, however, have made these Louisiana law enforcement entities ineligible for many Department of Justice grants. The Committee recommends this section to correct this interpretation. This provision has no impact, adverse or otherwise, on any other State.

2. *Section 502—Carjacking Offenses.*—In 1992, Congress made "carjacking" a Federal offense, and in 1994 amended the law, codified at 18 U.S.C. 2119, to make carjacking a Federal capital offense if death results and to require the government to prove, as an element of any Federal carjacking offense, that the defendant acted "with the intent to cause death or serious bodily harm."[63] Since then, the Justice Department has informed the Committee that the inclusion of this element has led to the acquittal of at least one defendant who otherwise committed the offense of carjacking. The Committee has decided that the inclusion of this element is unnecessary to establish either culpability or Federal jurisdiction over the conduct in question. Accordingly, the bill reported by the Committee would delete this element from section 2119 of title 18.

3. *Section 503—Firearms Safety.*—The Committee notes that the proper storage of firearms is the responsibility of all gun owners. The key to this responsibility is the best combination of education, safety, training and careful consideration of all factors that relate to an individual's particular needs. Safe storage of handguns varies depending on the type of firearm, and the needs of the owner. There is no one approach for all circumstances; each is unique and specific and must be treated as such.

The Committee recognizes that locks and other safety devices are already used by thousands of responsible gun owners and are available in virtually any gun store. With this section, however, the Committee intends further to encourage the use of such devices, while preserving the individual's right to choose which method of secure gun storage or safety device would be most suitable to his or her particular circumstances. The Committee recognizes that there are many options for securing a loaded firearm which may be kept available primarily for self-defense purposes in a vault or a secure box. There are also reasons why an individual would choose not to have a loaded firearm in the home if, for instance there are children or other persons who should not be allowed unsupervised access to firearms. The general firearms safety rule that ought be applied to all conditions is that firearms should be stored so they are not accessible to untrained or unauthorized persons. The Committee's recommendation broadly defines "secure gun storage or safety device" to include a device that when installed on a firearm is designed to prevent it from being operated without first deactivating or removing the device, such as a trigger lock; a device that is incorporated into the design of the firearm to prevent its operation by an unauthorized person; or a safe, gun safe, gun case, lock box, or other device, that is designed to be unlocked by means of a key, a combination or other similar means, and is designed to be or can be used to store a firearm securely.

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[63] Section 60003 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, 108 Stat. 1970 (Sept. 13, 1994). The scienter requirement added by the 1994 amendment replaced a provision of the 1992 law that required the Government to prove possession of a firearm by the defendant during the commission of the offense.

This provision requires that a Federal firearms dealer license applicant must certify that one or more secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not dealers. This requires licensed dealers to stock one or more secure gun storage or safety devices at any place in which firearms are sold under the license. The Committee recognizes, however, the realities of operating a commercial retail outlet and the necessity of ensuring that an otherwise unforeseen circumstance does not become the basis for penalizing a licensee who would otherwise be in compliance with existing Federal statutes. The licensee will not be in violation of this section when a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, back orders from a manufacturer, or any other similar reason beyond the control of the licensee. The penalty for willful violation of this provisions, where one of the exceptions noted above are not applicable, is revocation of the dealer's license, after notice and opportunity for a hearing is given pursuant to current law.

Furthermore, it is the intent of the Committee that this statutory language be strictly construed. With this in mind, it should be clearly stated that the Committee intends that nothing in this firearms safety provision shall be construed to create a cause of action against any firearms dealer, firearms owner, or any other person for any civil liability, or creating any standard of care by which a person or entity may be held liable. For example, no standard of care is established by this legislation as to whether, or under what circumstances, a firearms owner chooses to use or not use a secure storage device. Therefore, evidence concerning compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any court proceeding, agency, board, or other entity. Additionally, the Committee notes that the provisions of this section are intended to apply only prospectively.

4. *Section 504—Firearm Safety Education Grants.*—The Committee finds that firearms safety, education and training is of primary importance in reducing unintentional firearms accidents and deaths, and that the lawful and safe use of firearms for self-defense and sporting purposes is an important part of this country's heritage and its future. The Committee notes that a majority of States now have some form of right-to-carry legislation, and the Committee believes that firearms safety, education, and training for the general public by public and private entities should be encouraged. The Committee therefore considers the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs (the Byrne Program), through the Bureau of Justice Assistance, to be a good vehicle through which to deliver such training and education.

This grant program provides leadership and assistance to reduce and prevent crime, violence and drug abuse. In fiscal year 1997, $60 million was appropriated for the Byrne Discretionary Grant Program. The bill amends the Byrne Program to provide that the purpose of the discretionary grants shall be the initiation of educational training programs for criminal justice personnel and the general public concerning the lawful and safe ownership, storage, carriage, or use of firearms, including secure storage or safety devices. In carrying out this purpose, the bill authorizes the Director of the Bureau of Justice Statistics to make grants, or enter into contracts with any State or local law enforcement agency to provide for a firearm safety program that includes general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carrying or use of firearms.

The Committee expects that the use of any Federal funds pursuant to this program will be accomplished in an unbiased manner. To that end, the Committee prohibits any Byrne Grant funds from being used directly or indirectly (as, for example, through the supplanting of non-Federal funds) for purposes of promoting or advocating gun control. This restriction includes lobbying efforts, whether Federal, State, or local which are intended to restrict or control the purchase or use of firearms. The section takes effect on the earlier of October 1, 1997, or the date of enactment of the Violent and Repeat Juvenile Offender Act of 1997.

5. *Sections 505–508—Firearms Offenses.*—Current law makes it a crime to engage in various actions in connection with the possession or use of a firearm. For example, some persons (*e.g.*, convicted felons whose firearm rights have not been restored) cannot possess a firearm. These provisions increase the authorized statutory punishments for some of these offenses and direct the Sentencing Commission to increase the base offense level for one of them.

6. *Sections 509–510—Criminal Forfeiture for Certain Firearms Offenses.*—The criminal law sometimes requires the forfeiture of an instrumentality of a crime. These provisions address the criminal forfeiture of firearms. The Committee believes that it is reasonable to require forfeiture, in the criminal process, rather than through civil forfeiture of firearms that are used, or that were intended to be used to commit or to facilitate the commission of an offense that is either a crime of violence, as defined in section 16 of title 18, or any felony under Federal law. Under section 509, the seizing agency may dispose of forfeited firearms in any manner authorized by law. Section 510 authorizes the district court, at sentencing of a person convicted of a gun trafficking offense (as that term is defined in 18 U.S.C. 981(a)(1)(G)), or a conspiracy to commit such an offense, to forfeit to the United States any conveyance used, or intended to be used, in the commission of the offense, and any property traceable to such conveyance.

7. *Section 511—Using Prison Inmate Labor and Other Labor for Data Processing of Personal Information About Children.*—The Committee intends this provision to further the protection of children and adults from falling victim to pedophiles and others who seek to prey on individuals by using information for criminal purposes. The problem arises from the use of prison labor for entering information about individuals into data bases and for compiling lists of individual with particular characteristics, as well as for various other purposes. This practice creates the opportunity for convicted criminals to misappropriate sensitive personal information for illicit purposes. For instance, the "New York Times" reported in November, 1996, that a convicted pedophile incarcerated in a Minnesota State prison, who managed computer operations for the prison's computer programming and telemarketing business, se-

cretly created a database of personal information about thousands of children. Similarly, an Ohio woman reportedly received a "sexually graphic and threatening letter" from a convicted rapist in a Texas prison, who had received personal information about her while keypunching data for a direct marketing corporation. By forbidding data input of this nature as well as by outlawing the dissemination of such information for criminal purposes, the Committee believes that the government can help protect an individual's legitimate privacy interests without unnecessarily disrupting dissemination of such information for legitimate and beneficial commercial, educational, and personal reasons.

8. *Section 512—Truth-in-Sentencing Incentive Grants.*—The Committee is concerned that without a per-State minimum grant amount under the truth in sentencing grants portion of the Violent Offender Incarceration and Truth in Sentencing Incentive Grant program, insufficient incentives are in place for all States to reform their sentencing in order to effectuate Congressional intent. This section amends the program to ensure minimum grant amount for each State.

9. *Section 513—False Advertising or Misuse of Name to Indicate United States Marshals Service.*—Section 709 of title 18 makes it a crime to utilize the initials or insignia of various Federal agencies in various communications in a manner calculated to falsely imply that agency's endorsement or authorization. The Committee's recommendation adds a paragraph to this section so that the U.S. Marshals Service is included among the agencies covered by this provision.

10. *Section 514—Extension of Authority.*—Section 233 of the Antiterrorism and Effective Death Penalty Act of 1996[64] requires, as a condition of receipt of Federal crime victim compensation assistance, that State crime victim compensation funds include victims of foreign and domestic terrorism among the crime victims eligible for compensation from the funds, and gave States one year to come into compliance with the requirement. Recognizing the difficulty that States have had in enacting legislation to bring their funds into compliance, the Committee recommends this provision extending the compliance period until October 1, 1999.

11. *Section 515—Use of Residential Substance Abuse Treatment Grants to Provide Aftercare Services.*—The purpose of Residential Substance Abuse Treatment (RSAT) for State Prisoners Formula Grant Program is to assist States and units of local government in developing and implementing residential substance abuse treatment programs within State and local correctional and detention facilities in which prisoners are incarcerated for a period of time sufficient to permit substance abuse treatment. Entities applying for RSAT funds must post a 25 percent match of Federal funds. While the law provides a preference to units of government that provide "aftercare" (post-incarceration treatment), the law bars prisons from using RSAT funds for post-incarceration treatment. The amendment recommended by the Committee would permit States to use RSAT funds—including those funds that were appropriated before S. 10 takes effect—to provide post-incarceration

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[64] Public Law 104–132, 110 Stat. 1244 (Apr. 24, 1996).

treatment for inmates or former inmates if the Governor certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services. The Committee believes that this amendment will provide for the more effective use of funds appropriated for prison drug treatment programs.

12. *Section 516—Establishment of Felony Violations.*—Under certain circumstances, Federal law currently makes it a criminal offense to avoid child support obligations. The Committee's bill would modify current law to provide for felony punishment in certain circumstances.

13. *Section 517—Hate Crimes Statistics Act.*—The Federal Bureau of Investigation, under a delegation from the Attorney General, keeps statistics on the commission of hate crimes. In order to learn the number of hate crimes committed by juveniles and adults, the Committee's recommendation would require the Attorney General to include data regarding the age of offenders who commit crimes covered by the Hate Crimes Statistics Act (28 U.S.C. 534) in the FBI Uniform Crime Reports.

14. *Section 518—Elimination of the Statute of Limitations for Murder and Class A Offenses.*—This section would eliminate the statute of limitations for murder and class A felonies in order to lengthen the period during which such charges can be filed.

15. *Section 519—Priority.*—Section 519 is intended by the Committee to encourage entities seeking grants under the Byrne discretionary grant program to implement gun and ballistics tracing programs as one component of an overall strategy relating to gangs or juveniles at risk of involvement in gangs. Gun and ballistics tracing programs in place in 18 cities and many local governments use a variety of technologies to match guns, bullets, and casings from various shootings, thereby to assisting law enforcement in solving difficult violent crimes, and identifying illegal gun and drug traffickers who supply weapons to juvenile gangs or other criminal enterprises. Gun tracing programs have been important components in the successful juvenile crime reduction strategies of cities such as Boston. Use of regional ballistics data base systems have been essential in solving violent crimes in Ohio and other States.

This section is intended to encourage gun and ballistic tracing elsewhere by instructing the administrator of the Byrne discretionary grant program to give priority to applicants who have gun or ballistics tracing as a component of their anti-gang proposal. This provision does not order the administrator to fund gun or ballistics tracing initiatives, or to give gun or ballistics tracing initiatives priority over all other applicants for Byrne discretionary grants.

16. *Sections 520–523—Penalties for Involving Juveniles in Crime.*—Juveniles are not only participants in criminal activities; they also are victims of them. In some circumstances, adults will use juveniles to commit crimes on their behalf. In the past, adults used juveniles as "numbers runners"; more recently, adults have used juveniles as "lookouts" or "steerers" for crack houses. Adults and juveniles alike also can sell illegal drugs to juveniles, sometimes near schools. The Committee sought to ensure that such conduct is punished harshly by increasing the penalties for distribut-

ing illegal drugs to minors, for distributing drugs near schools, and for using minors to distribute drugs or to commit crimes of violence.

17. *Section 524—Increased Penalties for Using Federal Property to Grow or Manufacture Controlled Substances.*—Members of the public should be, and should feel, safe while they are on Federal property. The cultivation or manufacture of controlled substances creates a risk of violence, because the persons responsible for such conduct may use violence in order to avoid detection and to protect their contraband. The Committee believes that the penalties imposed on such conduct should be increased in order to help prevent Federal property from being used in this manner.

18. *Sections 525–526—Safe Schools and Applicability to Dangerous Weapons.*—The Committee is greatly concerned with the ready availability of drugs, tobacco, alcohol, and weapons to our young people, particularly on our secondary school campuses. The Committee believes that the presence of these items in our schools endangers young people, places them at greater risk of either involvement in criminal activity or of becoming a victim of crime, and threatens the educational mission of our schools. The Committee recommends these two sections to help protect juveniles from harm associated with drugs, tobacco, alcohol, and weapons in school. The Committee believes it to be appropriate to encourage serious consequences for bringing drugs, tobacco, alcohol, or weapons to school. At the same time, however, the Committee wishes also to ensure that the education of students who possess drugs for their personal use, or tobacco or alcohol, is not irreparably interrupted by implementation of an appropriate penalty. It would be counterproductive for the imposition of an overly harsh suspension for such violations to push a marginal student over the edge into dropout status. For this reason, the Committee intends that, in implementing this section, sanctions be graduated to reflect the seriousness of repeated commission of the violations, and that the greatest possible opportunity be given to students to reform.

SUBTITLE B

19. *Sections 531–540—Child Exploitation Sentencing Enhancement.*—The Committee continues to be concerned about growing evidence that criminals are using computer and telecommunications technology as a means to assist in the sexual victimization of young children. Sexual predators and child molesters misuse and exploit this technology by using computers to target young victims—many of whom are lured to meet with the offender. The technology provides the criminal with a greater number of potential victims than previously available and eliminates the need for initial physical contact in facilitating these crimes. Further, criminals are able to exploit the near fool-proof anonymity available to users of the Internet. These factors represent new and dangerous challenges to parents and the law enforcement community. This misuse and exploitation of advancing computer technology threatens not only the health and safety of young people across the world, but also threatens the continued development of the Internet. The Committee considers the elimination of this type of criminal conduct essential in order to protect young people and preserve the

benefits of the Internet for everyone. The Committee directs the United States Sentencing Commission to increase Federal penalties for criminals that use the Internet to facilitate a crime of sexual abuse and exploitation against children. The Committee also directs that sentences for repeat sexual offenders be increased and authorizes funding for guardians ad litem to assist children who are the victims of or witnesses to crimes of sexual abuse.

Section 533—Directs the United States Sentencing Commission to provide an appropriate sentencing enhancement for the use of a computer with the intent to persuade, induce, entice, or coerce a child to engage in a crime of sexual abuse or exploitation.

Section 534—Directs the United States Sentencing Commission to provide an appropriate sentencing enhancement for the knowing misrepresentation of a defendant's identity with the intent to persuade, induce, entice, or coerce a child to engage in a crime of sexual abuse or exploitation.

Section 535—Directs the United States Sentencing Commission to provide an appropriate sentencing enhancement for defendants found to have engaged in a repeated or ongoing pattern of activity involving the sexual abuse or exploitation of a minor.

Section 536—Increases penalties for repeat offenders by linking offenses committed under title 18, chapters 117, 109A and 110 together for purposes of applying higher repeat offender penalties. Increases maximum penalties for transportation for the purposes of illegal sexual activity and related crimes.

Section 537—Clarifies that for purposes of the Federal Sentencing Guidelines, the term "distribution of pornography" includes distribution for monetary remuneration or for non-pecuniary interests.

Section 538—Requires that in satisfying the requirements of this subtitle, the United States Sentencing Commission shall ensure consistency among Federal sentencing guidelines and avoid duplicative punishment for the same offense.

Section 539—Authorizes funding to be used to appoint guardians ad litem, pursuant to 18 U.S.C. section 3509(h), for children who are the victims of, or witnesses to, crimes involving sexual abuse or exploitation.

III. SECTION SUMMARY

GENERAL PROVISIONS

Section 1. Short Title, Table of Contents

This section entitles this title as the "Violent and Repeat Juvenile Offender Act of 1997", and provides a table of contents for the bill.

Section 2. Findings and Purpose

This section provides Congressional findings related to juvenile crime, the juvenile justice system, and the changes needed to reform the juvenile justice system to curb youth violence and ensure accountability by youthful criminals.

Section 3. Severability

This section provides severability for the provisions of the Act.

TITLE I—JUVENILE JUSTICE REFORM

This title reforms the procedures by which juveniles who commit Federal crimes are prosecuted and punished.

Section 101. Repeal of General Provision

This section repeals the provision establishing the general practice of surrendering to State authorities juveniles arrested for the commission of Federal offenses.

Section 102. Treatment of Federal Juvenile Offenders

This section gives the U.S. attorney the discretion to prosecute juveniles age 14 years or older as adults for violations of Federal law which are serious violent felonies or serious drug offenses (as these terms are defined in 18 U.S.C. 3559, the Federal 3-strikes statute). Juveniles 14 and older may be prosecuted as adults for any other felony violation of Federal law only with the approval of the Attorney General. If approval is not given, or, for all misdemeanor violations of Federal law, juveniles would be proceeded against as juveniles, or referred to State or tribal authorities. When prosecuted as adults, juveniles in Federal criminal cases would be subject to the same procedures and penalties as adults, including availability of records, open proceedings, and sentencing procedures. An exception is provided which waives the application of mandatory minimums to juveniles under age 16 who have no previous serious violent felony or serious drug offense convictions. This section also provides that juveniles tried as adults and sentenced to prison must serve their entire sentences, and may not be released on the basis of attaining their majority, and applies to juveniles convicted as adults the same provisions of victim restitution, including mandatory restitution, that apply to adults.

Section 103. Definitions

This section provides definitions for terms used, including new definitions to ensure that juveniles accused or convicted of Federal offenses are separated from adults and to conform the definition of the term "juvenile" with the procedural changes made by this title.

Section 104. Notification After Arrest

This section conforms the requirement, in 18 U.S.C. 5033, that certain persons be notified of the arrest of a juvenile for a Federal crime, with the procedural changes in section 102 of this subtitle, which vests discretion to prosecute juveniles as adults with the U.S. attorney for the district in the appropriate jurisdiction. This section also provides for the notification of the juveniles's parents or guardians, and prohibits the post-arrest housing of juveniles with adults.

Section 105. Release and Detention Prior to Disposition

This section provides for pretrial detention juveniles tried as adults on the same basis as adults, and prohibits the pretrial or pre-disposition detention of juveniles with adults.

Section 106. Speedy Trial

This section extends, from 30 to 70 days, the time in which the trial of a juvenile in detention must be commenced, and applies in juvenile cases the same tolling provisions for such time period that apply in adult prosecutions.

Section 107. Dispositional Hearings

This section provides for the sentencing of that juveniles found to be delinquent, but not tried as adults. It provides for a hearing on the matter within 40 days of an adjudication of delinquency, and provides for victim allocution at the hearing. The section provides a range of sentencing options to the court, including probation, fines, restitution, and/or imprisonment, and provides that terms of imprisonment may be imposed upon them for the same term as adults, except that such imprisonment must be terminated on the juvenile's 26th birthday. Juveniles sentenced to imprisonment may not be released solely on the basis of attaining their majority.

Section 108. Use of Juvenile Records

This section permits juvenile Federal criminal records to be provided to schools and colleges, and ensures that the records of juveniles prosecuted as adults are treated as adult records.

Section 109. Implementation of a Sentence for Juvenile Offenders

This section provides for the implementation of a sentence imposed on a delinquent or criminal juvenile and directs the Bureau of Prisons to not confine juveniles in any institution where the juvenile would not be separated from adult inmates.

Section 110. Magistrate Judge Authority Regarding Juvenile Defendants

This section extends the jurisdiction of Federal magistrate judges to class A misdemeanors involving juveniles; permits magistrate judges to impose terms of imprisonment on juveniles, and conforms the section conferring authority on magistrate judges with the procedural changes made by section 102.

Section 111. Federal Sentencing Guidelines

This section conforms the Sentencing Reform Act to ensure that the Federal Sentencing Guidelines relating to maximum penalties for violent crimes and serious drug crimes apply to juveniles tried as adults.

This section also amends the Sentencing Reform Act to direct the Sentencing Commission to promulgate sentencing guidelines for sentencing juveniles tried as adults in Federal court, and for dispositional hearings (the equivalent of sentencing) for juveniles adjudicated delinquent in the Federal system.

Section 112. Study and Report on Indian Tribal Jurisdiction

This section requires the Attorney General to study and report to the Congress on the capabilities of tribal courts and criminal justice systems relating to the prosecution of juvenile criminals under tribal jurisdiction, and requires the Attorney General to evaluate an expansion of tribal court criminal jurisdiction.

TITLE II—JUVENILE GANGS

Section 201. Short Title

This section entitles this subtitle as the "Federal Gang Violence Act".

Section 202. Increase in Offense Level for Participation in Crime as a Gang Member

This section instructs the Sentencing Commission to increase appropriately the base offense level for serious violent felonies or serious drug crimes committed by gang members in furtherance of the gang's activities.

Section 203. Amendment to Title 18 With Respect to Criminal Street Gangs

This section expands the definition of criminal street gangs, by including the commission of typical gang offenses such as extortion, obstruction of justice, laundering of drug money, and firearms offenses, in addition to violent crimes and drug offenses covered under current law.

This section also adds new mandatory minimum penalties of 5 years for engaging in two or more gang related crimes, and provides for the criminal forfeiture of gang related assets and profits.

Section 204. Interstate and Foreign Travel or Transportation in Aid of Criminal Street Gangs

This section enhances the penalties for interstate, gang related crimes, and expands the Travel Act to respond more effectively to organized street gangs operating interstate by including as predicates gang crimes such as burglary in excess of $10,000, drive-by shootings, certain violent assaults, and witness intimidation, as Travel Act predicates.

Section 205. Solicitation or Recruitment of Persons in Criminal Gang Activity

This section makes the recruitment or solicitation of persons to participate in gang activity subject to a 1-year minimum and 10-year maximum penalty, or a fine of up to $250,000. If a minor is recruited or solicited, the minimum penalty is increased to 4 years. In addition, a person convicted of this crime would have to pay the costs of housing, maintaining, and treating the juvenile until the juvenile reaches the age of 18 years.

Section 206. Crimes Involving the Recruitment of Persons To Participate in Criminal Street Gangs and Firearms Offenses as RICO Predicates

This section makes recruiting members into a criminal street gang, or the commission of certain firearms offenses in furtherance of a serious violent felony or serious drug offense (as these terms are defined in 18 U.S.C. 3559, the Federal 3-strikes statute), predicate crimes under the Federal racketeering laws.

Section 207. Prohibitions Relating to Firearms

This section provides new penalties for gang crimes committed with firearms, including mandatory minimum penalties for the transfer of a firearm to a minor, ensuring that the penalties apply to minors transferring firearms, and making violent crimes and drug trafficking crimes committed by juveniles predicate offenses under the Federal Armed Career Criminal Act.

Section 208. Amendment of Sentencing Guidelines With Respect to Body Armor

This section directs the United States Sentencing Commission to provide a minimum two level sentencing enhancement for any defendant committing a Federal crime while wearing body armor.

Section 209. Prison Communications

This section modifies the wiretap laws to exempt the interception of communications made by or to inmates in Federal or State prisons and jails. Communications exercising an inmate's attorney-client privilege and the sixth amendment right to counsel are protected.

Section 210. High Intensity Interstate Gang Activity Areas

This section authorizes the Attorney General to establish joint agency task forces to address gang crime in areas with high concentrations of gang activity. This provision authorizes $100 million per year for this program; $60 million per year is authorized for establishment and operation of High Intensity Interstate Gang Activity Areas, and $40 million per year is authorized for community-based gang prevention and intervention for gang members and at-risk youth in gang areas.

Section 211. Increased RICO Penalties for Gang and Violent Crimes

This section directs the Sentencing Commission to provide an appropriate enhancement for recruiting or soliciting persons residing in another State to become or to remain a member of a criminal gang, or to cross a State line with the intent to recruit, solicit or cause another person to become or to remain a member of a criminal gang.

Second, the amendment increases the penalty for RICO violations from 20 years' imprisonment to the greater of 20 years' or the statutory maximum imprisonment term applicable to the racketeering activity on which the violation is based.

Section 212. Increasing the Penalty for Using Physical Force to Tamper With Witnesses, Victims, or Informants

This section increases the penalty from a maximum of 10 years' imprisonment to a maximum of 20 years' imprisonment for using or threatening physical force against any person with intent to tamper with a witness, victim, or informant. This section also adds a conspiracy penalty for obstruction of justice offenses involving victims, witnesses, and informants. In addition, this section makes traveling in interstate or foreign commerce to bribe, threaten or intimidate a witness to delay or influence testimony in a State criminal proceeding a violation of the Federal Travel Act, 18 U.S.C. Section 1952.

Section 213. Clone Pagers

This section devices would allow law enforcement to apply to use a numeric clone pager (a device that receives telephone numbers or other numeric information sent to a pager at the same time the pager receives it) under the same standards that apply to pen registers and trap and trace devices, instead of the higher wiretap standard.

TITLE III—JUVENILE CRIME CONTROL AND ACCOUNTABILITY

This subtitle amends and reauthorizes the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA), to provide assistance to States for effective youth crime control and accountability.

Section 301. Findings; Declaration of Purpose; Definitions

This section updates and revises the Congressional findings and declaration of purpose contained in the JJDPA to reflect the reality of violent juvenile crime.

Section 302. National Program

This section reforms the Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the Department of Justice, renaming the OJJDP as the Office of Juvenile Crime Control and Accountability (OJCCA), with an Administrator appointed by the President and confirmed by the Senate. This section also requires the OJCCA Administrator to present to Congress annual plans, with measurable goals, to control and prevent youth crime, coordinate all Federal programs relating to controlling and preventing youth crime, and presenting a coordinated National Juvenile Crime Control and Juvenile Offender Accountability Budget.

Section 303. Juvenile Crime Control and Juvenile Offender Accountability Incentive Block Grants

This section establishes an incentive block grant program for States, authorized at $500 million for each of the next 5 fiscal years. The incentive block grants would fund a variety of programs, such as constructing juvenile offender detention facilities, fingerprinting juvenile offenders; conducting DNA tests on juvenile offenders; establishing recordkeeping ability; sharing records with other law enforcement agencies; ensuring that records are available to the public on a par with adult records; establishing the ability to share criminal history information within each State, with other States, and with the Federal Government; participating in the NCIC program; establishing SHOCAP programs; enforcing truancy laws; and various prevention programs including afterschool youth activities, antigang initiatives, literacy programs, and job training programs.

Receipt of the incentive grants would be conditioned on the adoption of policies including the prosecution of juvenile offenders age 14 and older as adults for certain crimes of violence; the maintenance and appropriate dissemination of criminal records of juvenile offenders; drug testing juvenile offenders upon arrest in appropriate cases; and the establishment of local advisory groups to coordinate local juvenile justice system activities.

Additionally, States would be required to agree, as a condition of the receipt of Federal funds block grant funds, not to incarcerate juveniles in a manner that would permit juveniles to be subject to physical harm or verbal threats from adult inmates. Religious organizations would be eligible to participate and receive subgrants from the States, on the same basis as any other private sector entity.

Indian tribes receive separate grants under this section.

Section 304. State Plans

This section reauthorizes the State formula grant program included in the original 1974 JJDPA. The section modifies certain conditions on the States' receipt of formula grant funds, including mandates prohibiting confinement of juveniles for status offenses, prohibiting the confinement of adults and juveniles in the same facilities, and requiring steps to eradicate disparities in the percentage of minority youth confined. The formula grant program's focus on prevention activities is maintained. Emphasis is given, however, to programs which further an accountability-based juvenile justice system that provides substantial and appropriate sanctions that are graduated to reflect the severity or repeated commission of violations, for each delinquent or criminal act.

This section also retains authorization in title II of the current JJDPA of grant programs for mentoring, boot camps, and gang reduction. Appropriations for these programs and the State formula grants are authorized for a combined total of $150 million per year for 5 years.

This section also reauthorizes the National Institute of Juvenile Justice and Delinquency (the Institute), and establishes a program, to be run by the Institute, to research and evaluate programs intended to prevent juvenile crime. This program is funded at $50 million per year for 5 years.

Section 305. Grants to Prosecutors and Courts for State Juvenile Justice Systems

This section establishes a grant program for State and local juvenile prosecutors and courts for the improvement of juvenile justice systems and the reduction of case backlogs. Each State would receive a minimum of .75 percent of available funds, with the remainder distributed by juvenile population. States may use up to 25 percent of the funds to pay juvenile court judges, probation officers, and public defenders.

Section 306. Runaway and Homeless Youth

This section reauthorizes the Runaway and Homeless Youth program through fiscal year 2002.

Section 307. Authorization of Appropriations

This section reauthorizes the Missing and Exploited Children program through fiscal year 2002.

Section 308. Transfer of Functions and Savings Provisions

This section provides technical and administrative rules to transfer functions, and to govern the transition from the Office of Juvenile Justice and Delinquency Prevention to the Office of Juvenile Crime and Accountability.

Section 309. Pilot Program To Promote Replication of Recent Successful Juvenile Crime Reduction Strategies

This section authorizes the Attorney General to fund pilot programs to replicate the successful juvenile crime reduction program utilized by Boston, MA. Pilot program grant recipients would adopt a juvenile crime reduction strategy involving close collaboration among Federal, State, and local law enforcement authorities, and including religious affiliated or fraternal organizations, school officials, social service agencies, and parent or local grassroots organizations. Emphasis would be placed on initiating effective crime prevention programs and tracing firearms seized from crime scenes or offenders in an effort to identify illegal gun traffickers who are supplying weapons to gangs and other criminal enterprises.

Section 310. Repeal of Unnecessary and Duplicative Programs

This section repeals duplicative and wasteful programs enacted as a part of the 1994 crime law, including the Ounce of Prevention Council, the Model Intensive Grant Program, the Local Partnership Act, the National Community Economic Partnership, the Urban Recreation and At-Risk Youth Program, and the Family Unity Demonstration Project.

Section 311. Extension of Violent Crime Reduction Trust Fund

This section extends the Violent Crime Reduction Trust Fund, established in the 1994 omnibus crime law, to fund programs authorized by this act.

Section 312. Reimbursement of States for the Costs of Incarcerating Juvenile Aliens

This section adds juvenile aliens to the State Criminal Alien Assistance Program, which provides reimbursement to the States for the costs of incarcerating criminal aliens.

TITLE IV—BOYS AND GIRLS CLUBS

Section 401. 2,500 Boys and Girls Clubs By 2000

This section modifies and improves the grant authorization established in the 104th Congress to provide seed money for the expansion and construction of Boys and Girls Clubs in distressed areas. The provision for the last year authorized $100 million over 5 years; this section streamlines the application process for these funds, and permits a small percentage to be used for a role model speakers program. This section also authorizes $15 million for the establishment of at least three "flagship" state of the art boys and girls clubs.

TITLE V—MISCELLANEOUS

SUBTITLE A—GENERAL PROVISIONS

Section 501. Definition of Unit of Local Government

This section clarifies the definition of the term "unit of local government" for the purposes of law enforcement assistance grants distributed by the Department of Justice, to ensure that local entities with independent taxing authority and responsibility for crime control matters qualify as units of local government for grant distribution purposes.

Section 502. Carjacking Offenses

This section would eliminate the requirement that the prosecution prove that the defendant intended to cause death or serious bodily harm to the victim during the commission of a Federal offense of carjacking.

Section 503. Firearms Safety

This section requires federally licensed firearms dealers to have available for sale a range of devices, including safety locks, safes, and lock boxes, designed to enhance the safe storage and handling of firearms. The section provides that firearms dealers and owners may not be held civilly liable for failure to have or use such safety devices.

Section 504. Firearm Safety Education Grants

This section permits States to use a portion of Federal crime fighting grants to instruct citizens in the safe storage, handling, carry, and use of firearms.

Section 505. Increased Penalty for Firearms Conspiracy

This section provides that a conspiracy to commit any violation of the Federal firearms laws is punishable by the same maximum term as applicable to the substantive offense that was the object of the conspiracy.

Section 506. Felony Treatment for Offenses Tantamount To Aiding and Abetting Unlawful Purchases

This section would increase the punishment for the most serious recordkeeping violations, which are tantamount to aiding and abetting unlawful deliveries or purchases of firearms. Under current law (18 U.S.C. 924(a)(3)), all recordkeeping violations of Federal firearms licensees are misdemeanors. This section would increase the penalties for knowingly creating false records relating to firearms purchases by persons prohibited from owning firearms to the same level applicable to the unlawful purchaser. The maximum penalty for creating false records in relation to sales to persons known to be minors or out of State residents is increased to 5 years imprisonment. The maximum penalty for creating false records in relation to sales to felons or persons known to be making false statements is increased to 10 years imprisonment.

Section 507. Increased Penalty for Knowingly Receiving Firearms With Obliterated Serial Number

This section increases the maximum penalty for knowingly receiving a firearm with an obliterated or altered serial number from 5 to 10 years imprisonment, the same penalty applicable to receiving a stolen firearm.

Section 508. Amendment of the Sentencing Guidelines for Transfers of Firearms to Prohibited Persons

This section instructs the United States Sentencing Commission to increase the base level offense for certain firearms violations subject to guideline section 2K2.1. The amended guideline should assure that a person who knowingly transfers a firearm to a person disqualified from owning a firearm is subject to the same base level offense as the transferee (unless the transferee's base level offense is increased due to a previous violent or drug offense). In carrying out this instruction, the Sentencing Commission must ensure there is reasonable consistency with other guidelines and avoid duplicative punishment for substantially the same offense.

Section 509. Criminal Forfeiture of Firearms Used in Crimes of Violence and Felonies

This section provides for criminal forfeiture of firearms used in a violent crime or other Federal felony. Currently, the Department of Treasury has authority under section 924 of title 18 to seek civil forfeiture of firearms involved in Federal criminal offenses. But Department of Justice law enforcement agencies, responsible for enforcing laws governing violent crime, currently lack this authority.

Section 510. Criminal Forfeiture for Gun Trafficking

This section provides for criminal forfeiture of vehicles and any other property traceable to the vehicles used in a gun trafficking offense (specifically, sections 922(i), 924(g), 924(k) and 924(m) of title 18) involving five or more firearms.

Section 511. Using Prison Inmate Labor and Other Labor for Data Processing of Personal Information about Children

Prison inmate labor has reportedly been used to input data concerning children for commercial, educational, and other data bases. There is considerable concern that this type of sensitive information could be used for illicit purposes, such as targeting children by or for pedophiles, if this information fell into the wrong hands. To prevent the inappropriate dissemination of such information that has the potential to harm children, this provision prohibits data entry by prison inmate laborers. Further, this provision criminalizes the sale or other distribution of such personal information if such transfer or receipt is knowingly made to commit a criminal offense.

Section 512. Truth-in-Sentencing Incentive Grants

This section amends the Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant Program, enacted in 1996, to provide that each State that is eligible for a truth in sentencing grant receives a guaranteed share of the grant funding available.

Each eligible State would receive a minimum of .75 percent of the total funding under the truth in sentencing part of the grant program, with remaining funds allocated to each eligible State based on State's reported violent crime rates.

Section 513. False Advertising or Misuse of Name to Indicate United States Marshals Service

This section amends 18 U.S.C. §709 to prohibit the use in false advertising and the misuse of the name, likeness and symbols of the United States Marshals Service. Current law prohibits misuse of the name, likeness and symbols of the FBI, Secret Service, and DEA.

Section 514. Extension of Authority

This section amends the victim compensation provisions of the Antiterrorism and Effective Death Penalty Act of 1996 in order to provide States with additional time to come into compliance with the requirement that State compensation programs offer coverage to their residents who are victimized by acts of terrorism overseas.

Section 515. Use of Residential Substance Abuse Treatment (RSAT) Grants To Provide Aftercare Services

This section permits States to use grants for drug treatment in prisons (RSAT grants) to provide post-incarceration substance abuse treatment for former inmates if the Governor certifies to the U.S. Attorney General that the State is providing, and will continue to provide, an adequate level of treatment services to incarcerated inmates.

Section 516. Establishment of Felony Violations

This section revises the penalties under Federal law for the failure to pay child support. The willful failure to pay a support obligation with respect to a child who resides in another State when the obligation has remained unpaid for more than 1 year or when the obligation amount exceeds $5,000 is a misdemeanor. A second such offense is a felony. Also made a felony are two other offenses: (1) traveling in interstate or foreign commerce with the intent to avoid a support obligation that has remained unpaid for more than 1 year or exceeds $5,000; and (2) willful failure to pay a support obligation with respect to a child who resides in another State when the obligation has remained unpaid for more than 2 years or when the obligation amount exceeds $10,000.

Section 517. Hate Crimes Statistics Act

This section amends the Hate Crimes Statistics Act to require that future compilations of statistics on hate crimes include information on the age of the offender.

Section 518. Elimination of the Statute of Limitations for Murder and Class A Offenses

This section eliminates the statute of limitations for any Federal offense involving murder, even if the crime does not carry the death penalty. Specifically, this section amends 18 U.S.C. §3281, to permit an indictment or information to be filed at any time for Class A offenses involving murder.

Section 519. Priority

This section encourages entities seeking grants under the Byrne Discretionary Grant Program to implement gun and ballistics tracing programs as one component of an overall strategy relating to gangs or juveniles at risk of involvement in gangs, by instructing the administrator of the Byrne Discretionary Grant Program to give priority to applicants who have gun or ballistics tracing as a component of their antigang proposal. For instance, if two entities submit applications for Byrne discretionary grants to combat gangs, this section directs the administrator to give priority to the applicant that has a gun or ballistics tracing element as a part of its antigang proposal.

Section 520. Increased Penalties for Distributing Drugs to Minors

This section increases the penalties for distributing controlled substances to minors.

Section 521. Increased Penalty for Drug Trafficking In or Near a School or Other Protected Location

This section increases the penalties for distributing controlled substances in or near a school or other protected location.

Section 522. Increased Penalties for Using Minors To Distribute Drugs

This section increases the penalties for using minors to distribute controlled substances.

Section 523. Penalties for Use of Minors in Crimes of Violence

This section increases twofold, and for a second or subsequent offense threefold, the penalties for using minors in the commission of a crime of violence.

Section 524. Increased Penalties for Using Federal Property To Grow or Manufacture Controlled Substances

This section doubles the punishment otherwise authorized by law for any person who cultivates or manufactures a controlled substance on any property owned in whole or in part by, or leased to, the Federal Government.

Section 525. Safe Schools

This section amends the Gun Free Schools Act, to expand its coverage to include drugs, tobacco, and alcohol.

Section 526. Applicability of Gun-Free Schools Act of 1994 to Dangerous Weapons

This section substitutes in place of the term "firearm" in the Gun-Free Schools Act of 1994 the term "dangerous weapon" in 18 U.S.C. 930, except that, for purposes of the Gun-Free Schools Act of 1994, the term "dangerous weapon" does not include any dangerous weapon possessed as a part of a course or curriculum approved pursuant to State or local laws. This exception will ensure that persons will not violate the law by possessing dangerous weapons in connection with authorized activities at military schools or other schools that authorize dangerous weapons as an authorized activity (e.g., Junior ROTC, riflery or archery courses, camping, etc.).

SUBTITLE B—CHILD EXPLOITATION SENTENCING ENHANCEMENT

Section 531. Short Title

This section contains the name of the title.

Section 532. Definitions

This section contains definitions.

Section 533. Increased Penalties for Use of a Computer in the Sexual Abuse or Exploitation of a Child

This section directs the U.S. Sentencing Commission to review the Federal Sentencing Guidelines for certain sexual offenses (18 U.S.C. 2241–2243) and to promulgate Guidelines amendment with appropriate enhancements for cases in which the defendant used a computer to persuade, entice, or induce a minor to engage in prohibited sexual activity.

Section 534. Increased Penalties for Knowing Misrepresentation in the Sexual Abuse or Exploitation of a Child

This section directs the U.S. Sentencing Commission to review the Federal Sentencing Guidelines for cases involving sexual exploitation of minors and to promulgate Guidelines amendment with appropriate enhancements for cases in which the defendant has engaged in a pattern of sexual activity involving abuse or exploitation of a minor.

Section 535. Increased Penalties for Pattern of Activity of Sexual Exploitation of Children

This section doubles the penalties for offenses punishable under chapters 109A, 110, and 117 of title 18 for any person who commits a violation of chapter 117 after one or more prior convictions for an offense punishable under chapters 109A or 110.

Section 536. Repeat Offenders; Increased Maximum Penalties for Transportation for Illegal Sexual Activity and Related Crimes

This section increases penalties for repeat offenders by linking offenses committed under title 18, chapters 117, 109A and 110 together for purposes of applying higher repeat offender penalties. Increases maximum penalties for transportation for the purposes of illegal sexual activity and related crimes.

Section 537. Clarification of Definition of Distribution of Pornography

This section clarifies that for purposes of the Federal Sentencing Guidelines, the term "distribution of pornography" includes distribution for monetary remuneration or for non-pecuniary interests.

Section 538. Directive to the United States Sentencing Commission

This section requires that in satisfying the requirements of this subtitle, the United States Sentencing Commission shall ensure consistency among Federal sentencing guidelines and avoid duplicative punishment for the same offense.

Section 539. Authorization for Guardians ad litem

This section authorizes the appointment of guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation. This section also authorizes monies to be appropriated for appointment of such guardians ad litem.

Section 540. Applicability

This section provides that this subtitle shall apply to any action commenced on or after the date of enactment of this Act.

IV. LEGISLATIVE HISTORY AND COMMITTEE ACTION

In 1974, Congress enacted the Juvenile Justice and Delinquency Prevention Act. Spurred by reports of dangerous conditions in which juveniles accused or convicted of crimes or status offenses were confined, Congress passed legislation to provide States assistance with juvenile justice. As a condition of receiving these funds, States were required to comply with two original mandates, later expanded to four, that protected accused and adjudicated juveniles from abuse. The legislation also established the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and directed it to dispense formula grants to the States and monitor their compliance with the mandates. In addition, the legislation established within OJJDP a research, demonstration, evaluation, and information dissemination component. Congress reauthorized the legislation in 1980, 1984, 1988, and 1992.

The OJJDP legislation, combined with increased tort liability in the States, has achieved the goals of protecting detained juveniles. But OJJDP has not effectively addressed the dramatic increase in juvenile crime, particularly violent juvenile crime. As a whole, the Federal Government's role in juvenile justice is fragmented and uncoordinated, with hundreds of programs scattered throughout different cabinet agencies. In particular, OJJDP has focused almost exclusively on prevention programs to the neglect of prosecution and detention of juvenile offenders. In fact, OJJDP's unreasonable and inflexible enforcement of the original co-location mandates has seriously undermined the ability of States to detained juvenile criminals. In this regard, OJJDP has actually been counterproductive considering the tremendous increase in violent juvenile crime.

For these reasons, the Subcommittee on Youth Violence conducted a series of hearings to determine what the Federal Government can do to help the States combat juvenile crime. The fact that substantial changes were needed to current Federal policy was the basis for the hearings. Much of the testimony from these hearings were incorporated in S. 10.

A. COMMITTEE CONSIDERATION: 104TH CONGRESS

The work of the Committee in the 105th Congress built upon the Committee's work, and that of the Subcommittee on Youth Violence, in the 104th Congress. During that Congress, the Committee held the following hearings:

The Subcommittee on Youth Violence held a field hearing in Memphis, TN, on February 15, 1996, on developing local solutions to youth violence. Witnesses included: Johnny Rawls, a graduate of the Youth Habilitation Center; a youth offender; Francetta Harris, the owner of Memphis hair salon; Charlesetta Temple of the Douglass Elementary School Alumni; Erika Davis, a high school student and founder of Students Against Violence Everywhere; the Honorable Jim Rout, Mayor, Shelby County; the Honorable W.W. Herenton, Mayor of Memphis; William Todd, President, Memphis Board of Education; the Honorable Kenneth Turner, Juvenile Judge; James Ball Administrator, Shelby County Training Center; the Honorable Victoria Coleman, U.S. Attorney for the Western District of Tennessee; the Honorable John Pierotti, District Attorney General; Dr. Robert Wood of the Agency for Youth and Family Development; Barbara Holden, Executive Director, Memphis and Shelby County Community Health Agency; Dan Michael, Administrator, Court Appointed Special Advocates; Billy Crouch of Tennessee Home Ties; and Chaplain Carl Nelson of the Mark Luttrell Recreation Center.

On February 16, 1996, the Subcommittee held a field hearing in Nashville, TN, on developing State solutions to youth violence. The witnesses were the Honorable Don Sundquist, Governor of Tennessee; George Hattaway, the Commissioner of Youth Development; the Honorable Douglas Henry, Tennessee Senate; the Honorable Page Walley, Tennessee House of Representatives; the Honorable Beth Harwell, Tennessee House of Representatives; the Honorable Frank Buck, Tennessee House of Representatives; Charles Ballard, President, Institute for Responsible Fatherhood; Linda O'Neal, Executive Director, Tennessee Commission on Children and Youth; Charles Leach, Buddies of Nashville; George Phyfer, Director of Juvenile Services, Corrections Corporation of America; Randy Dillon, Coordinator, Child and Family Services; the Honorable Paul Wohlford, juvenile judge; the Honorable Randy Camp, Juvenile Judge; the Honorable Dan Speer, Mayor, Pulaski, Tennessee; the Honorable Bernie Swiney, Mayor, Loudon, Tennessee; and the Honorable C. Van Deacon, Juvenile Judge.

The Subcommittee held a hearing in Washington, DC, on February 28, 1996, on the changing nature of youth violence. The Subcommittee heard as witnesses Dr. James Alan Fox, Dean, College of Criminal Justice, Northeastern University; Dr. Alfred Blumstein, professor, Carnegie-Mellon University; Dr. John J. DiIulio, Jr., Director, Brookings Institution's Center for Public Management; Rev. Eugene F. Rivers III, a Boston pastor and a fellow at Harvard Divinity School; the Honorable Carol Kelly, juvenile judge; the Honorable C. Van Deacon, juvenile judge; Col. (retired) Thomas Gordon, New Castle County Police Chief; and Rev. Stephen Hare, Faith City Baptist Church.

On March 12, 1996, the Subcommittee held a hearing in Washington, DC, on whether Federal strings on youth violence grants should be cut. Appearing as witnesses before the Subcommittee were Steve Carson, Police Chief, La Follette, TN; Byron Oedekoven, Sheriff, Gillette, WY; Ray Luick, Wisconsin Office of Justice Assistance; William Woodward, Director, Colorado Criminal Justice Department; Camille Anthony, Executive Director, Utah Commission on Crime and Juvenile Justice; Jerry Regier, Director, Oklahoma Department of Juvenile Justice; Patricia West, Director, Virginia Department of Youth and Family Services; and Robert Schwartz, Chairman, American Bar Association Juvenile Justice Committee.

The Subcommittee held a hearing on May 8, 1996, in Washington, DC, on oversight of Federal juvenile justice programs. Testimony was received from Shay Bilchik, Administrator, OJJDP; Dr. Laurie Ekstrand, Associate Director, Administration of Justice Issues, U.S. General Accounting Office; Dr. Ira Schwartz, Dean, School of Social Work, University of Pennsylvania; Lavonda Taylor of the Coalition of Juvenile Justice; Dr. Marvin Wolfgang, professor, University of Pennsylvania; Dr. Delbert Elliott, professor, University of Colorado; and Dr. Terrence Thornberry, professor, State University of New York at Albany.

The Subcommittee also held a field hearing in Albuquerque, New Mexico, on July 2, 1996. Sixteen witnesses testified, including State and local government officials, nonprofit agency personnel, judge, police officers, and juvenile crime victims.

B. COMMITTEE CONSIDERATION: 105TH CONGRESS

1. COMMITTEE HEARINGS

The Committee held a hearing in Washington, DC, on March 19, 1997, on the subject of "What Works: The Efforts of Private Individuals, Community Organizations, and Religious Groups to Prevent Juvenile Crime." Witnesses from Panel One were Mr. Steve Young, founder, Sport, Education & Values Foundation and Quarterback, San Francisco 49ers, San Francisco, CA; Mr. Kery Oldroyd, volunteer board president, Boys & Girls Club of Greater Salt Lake Salt Lake City, UT; and Mr. Amador Guzman, member, Boys & Girls Club of Greater Salt Lake Salt Lake City, UT. Witnesses from Panel Two were Reverend Jeffrey L. Brown, executive co-chairman, Ten Point Coalition, Boston, MA; Ms. Mary Lyman Jackson, president, Exodus Youth Services, Inc., Gaithersburg, MD; and Father Joseph Del Vecchio, SSJ, associate director, Office of Youth Ministry, Archdiocese of Washington, Washington, DC.

The Committee held a hearing in Washington, DC, on April 23, 1997, on the subject of "Gangs: A National Crisis." The witness from Panel One was Senator Harry Reid of Nevada. The witness from Panel Two was Steven Wiley, Section Chief of the Violent Crime Section, Federal Bureau of Investigation, Washington, DC. Witnesses from Panel Three were Aaron D. Kennard, Sheriff, Salt Lake County, UT; Colleen Minson, Citizen, Salt Lake City, UT; Captain James Mulvihill, Los Angeles County Sheriff's Office, Commander, Anti-Gang Unit, Los Angeles, CA; and A. James Walton, Jr., Commissioner, Vermont Department of Public Safety, Waterbury, VT.

2. SUBCOMMITTEE HEARINGS

The Subcommittee on Youth Violence held a hearing in Washington, DC, on April 16, 1997, on the need for more juvenile detention facilities and improved juvenile recordsharing. Witnesses from Panel One of the hearing included Senator John Ashcroft of Missouri; Judge John Butler, a juvenile court judge from Mobile, AL; Sheriff Ted Sexton from Tuscaloosa, AL; Ken Sukhia, a former United States Attorney from Tallahassee, FL; Mel Brown, the supervisor of Montgomery County, Texas Probation Department.

Witnesses from Panel Two of the hearing included Charles Archer of the Federal Bureau of Investigation, Washington, DC; James Wooten, president of Safe Streets Alliance, Washington, DC; and Vicki L. Wright, executive director of the Texas Juvenile Probation Commission, Austin, TX.

On May 6, 1997, the Subcommittee held a hearing in Washington, DC, on the burdensome and inflexible OJJDP mandates. Witnesses on Panel One included Shay Bilchick, Administrator of the Office of Juvenile Justice and Delinquency Prevention, Washington, DC; Patricia West, Secretary of the Virginia Department of Public Safety, Richmond, VA; Judge Don Reader, Juvenile Court Judge, Canton, OH; Bill Franklin, Sheriff of Wetumpka, AL, and Earl L. Dunlap, executive director, National Juvenile Detention Association, Richmond, KY.

Witnesses on Panel Two included John Kaites, State Senator, Phoenix, AZ; Carol Crump, Councilwoman from Casper, WY; Judy Nish, mother of a runaway juvenile, Marion, IA; Gwendolyn C. Chunn, director, North Carolina Division of Youth Services, Raleigh, NC; Mark I. Soler, president, Youth Law Center, Washington, DC.

The Subcommittee held a field hearing in St. Louis, MO, on June 20, 1997, on tracking violent juveniles and targeting adults who use them. Witnesses included Ronald Henderson, chief of the St. Louis Metropolitan Police Department, St. Louis, MO; Edward Dowd, United States Attorney, St. Louis, MO; Shelly Herst, a school teacher who was threatened by violent juveniles; Thomas Malecek, former commander of the juvenile division of the St. Louis Police Department, St. Louis, MO; Dr. Cleveland Hammonds, superintendent of St. Louis Public Schools, St. Louis, MO; P.J. Petrillo, director of Blue Springs Youth Offenders Unit, Blue Springs, MO; Neil Kurlander, chief of the Maryland Heights Police' Department, Maryland Heights, MO.

3. COMMITTEE MARKUP

The Senate Committee on the Judiciary met on seven occasions, with a quorum present, to consider S. 10. The first of these meetings occurred on June 12, 1997, at 10 a.m. An amendment in the nature of a substitute was proposed by Senator Hatch, to be considered as original text for the purposes of debate and amendments, and no rollcall votes occurred thereon.

The Senate Committee on the Judiciary, with a quorum present, met again on July 10, 1997, at 10 a.m. The following rollcall votes occurred on the bill and amendments proposed thereto:

(1) Senator Leahy offered an amendment to authorize the Federal trial as an adult of juveniles charged with nonserious violent or nonserious drug felony offenses only if the State is unable or unwilling to exercise jurisdiction. The amendment was defeated by a rollcall vote of 7 yeas to 9 nays.

YEAS	NAYS
Leahy	Hatch
Kennedy	Thurmond (by proxy)
Biden	Grassley
Kohl	Kyl
Feingold	DeWine (by proxy)
Durbin	Ashcroft
Torricelli (by proxy)	Abraham
	Sessions
	Feinstein

(2) Senator Leahy offered an amendment to provide substitute language relating to the transfer to juvenile court, upon defense motion, of certain delinquency proceedings and of certain juveniles charged as adults. The amendment was defeated by a rollcall vote of 6 yeas to 10 nays.

YEAS	NAYS
Leahy	Hatch
Kennedy	Thurmond (by proxy)
Biden	Grassley
Kohl	Kyl (by proxy)
Feingold	DeWine (by proxy)
Durbin	Ashcroft
	Abraham
	Sessions
	Feinstein
	Torricelli (by proxy)

The Senate Judiciary Committee, with a quorum present, met again on Friday, July 11, 1997, at 10:30 a.m. The following rollcall votes occurred on the bill and amendments proposed thereto:

(1) Senator Leahy offered an amendment to allow the United States Sentencing Commission, in developing juvenile sentencing guidelines, to presume the appropriateness of adult sentencing provisions only for juveniles convicted of serious violent or drug offenses. The amendment was defeated by a rollcall vote of 4 yeas to 11 nays.

YEAS	NAYS
Leahy	Hatch
Kennedy (by proxy)	Thurmond (by proxy)
Kohl (by proxy)	Grassley (by proxy)
Feingold (by proxy)	Kyl
	DeWine
	Ashcroft
	Abraham
	Sessions

Feinstein
Durbin
Torricelli

(2) Senator Ashcroft offered an amendment to increase punishment of adults who use a minor in a felony. The amendment was agreed to by a unanimous rollcall vote of 11 yeas.

YEAS	PRESENT
Hatch	Leahy
Thurmond (by proxy)	Kennedy
Grassley (by proxy)	Feingold
Kyl	
DeWine	
Ashcroft	
Abraham	
Sessions	
Feinstein	
Durbin	
Torricelli	

(3) Senator Leahy offered an amendment to add a provision to create a new Federal crime of interstate gang franchise. The amendment was defeated by a rollcall vote of 7 yeas to 8 nays.

YEAS	NAYS
Leahy	Hatch
Kennedy (by proxy)	Thurmond (by proxy)
Biden (by proxy)	Kyl
Kohl (by proxy)	DeWine
Feinstein	Ashcroft
Feingold (by proxy)	Abraham
Durbin	Sessions
	Torricelli

(4) Senator DeWine offered an amendment to remove the scienter requirement from 18 U.S.C. 2119, relating to carjackings. The amendment was agreed to by voice vote

The Senate Committee on the Judiciary, with a quorum present, met again on Tuesday, July 15, 1997, at 3 p.m. The following rollcall votes occurred on the bill and amendments proposed thereto:

(1) Senator Biden offered an amendment to restore the presumption that delinquency proceedings occur at the State level unless the State lacks jurisdiction or declines to assume jurisdiction and there is a substantial Federal interest. The amendment was defeated by a rollcall vote of 7 yeas to 8 nays.

YEAS	NAYS
Leahy (by proxy)	Hatch
Kennedy	Thurmond (by proxy)
Biden	Grassley
Kohl (by proxy)	Kyl
Feingold (by proxy)	DeWine
Durbin (by proxy)	Ashcroft
Torricelli	Abraham
	Sessions

(2) Senator Biden offered an amendment to clarify that new sentencing guidelines for juveniles will take into consideration the in-

terest of juvenile defendants. The amendment was agreed to by unanimous consent.

(3) Senator Biden offered an amendment clarify the application of new sentencing guidelines to juveniles tried as adults. The amendment was agreed to by unanimous consent.

(4) Senator Durbin offered an amendment to provide for a statutory standard for juvenile waivers of constitutional rights. The amendment was defeated by a rollcall vote of 6 yeas to 10 nays.

YEAS	NAYS
Leahy (by proxy)	Hatch
Kennedy	Thurmond
Biden (by proxy)	Grassley
Feingold (by proxy)	Kyl
Durbin	DeWine
Torricelli (by proxy)	Ashcroft
	Abraham (by proxy)
	Sessions
	Kohl
	Feinstein

(5) Senator Kohl offered an amendment to amend chapter 44 of title 18, United States Code, to improve the safety of handguns. The amendment was defeated by a rollcall vote of 8 yeas to 9 nays.

YEAS	NAYS
DeWine	Hatch
Kennedy (by proxy)	Thurmond
Biden	Grassley
Kohl	Specter (by proxy)
Feinstein	Thompson (by proxy)
Feingold (by proxy)	Kyl
Durbin	Ashcroft (by proxy)
Torricelli (by proxy)	Abraham (by proxy)
	Sessions

(6) Senator Hatch offered an amendment to amend chapter 44 of title 18, United States Code, to improve the safety of handguns. The amendment was agreed to by a rollcall vote of 10 yeas to 7 nays.

YEAS	NAYS
Hatch	Kennedy
Thurmond	Biden (by proxy)
Grassley	Kohl
Specter (by proxy)	Feinstein
Thompson (by proxy)	Feingold (by proxy)
Kyl	Durbin
DeWine	Torricelli (by proxy)
Ashcroft (by proxy)	
Abraham (by proxy)	
Sessions	

The Senate Committee on the Judiciary, with a quorum present, met again on Thursday, July 17, 1997, at 11 a.m. The following rollcall votes occurred on the bill and amendments proposed thereto:

(1) Senator Feinstein offered an amendment to amend the Gun-Free Schools Act of 1994 to apply the Act to possessions of dangerous weapons. The amendment was agreed to as modified, by unanimous consent.

The Senate Committee on the Judiciary, with a quorum present, met again on Wednesday, July 23, 1997, at 2:20 p.m. The following rollcall votes occurred on the bill and amendments proposed thereto:

(1) Senator Feinstein offered an amendment to prevent the use of prison inmate labor for data processing of personal information, to provide increased protection to children from individuals who pose a serious risk of harm to children, and for other purposes. The amendment, as modified, was agreed to by unanimous consent.

(2) Senator Biden offered an amendment to modify Federal firearms law. The amendment, as modified, was agreed to by unanimous consent.

(3) Senator Biden offered an amendment to regulate storage of firearms by dealers and to enhance enforcement of Federal firearms licensing laws. The amendment was defeated by rollcall vote of 6 yeas to 12 nays.

YEAS	NAYS
Kennedy (by proxy)	Hatch
Biden	Thurmond
Kohl (by proxy)	Grassley
Feinstein	Specter (by proxy)
Durbin (by proxy)	Thompson (by proxy)
Torricelli (by proxy)	Kyl
	DeWine
	Ashcroft
	Abraham (by proxy)
	Sessions
	Leahy
	Feingold

(4) Senator Grassley offered an amendment to require mandatory testing for certain sexually transmitted diseases of sex offenders who have victimized a child. The amendment was agreed to by unanimous consent.

(5) Senator Leahy offered an amendment to eligibility requirements relating to juvenile criminal record keeping for new $500 million block grant program. The amendment was defeated by a rollcall vote of 6 yeas to 10 nays.

YEAS	NAYS
Leahy	Hatch
Kennedy	Thurmond
Biden	Grassley
Kohl (by proxy)	Specter
Feingold	Kyl
Durbin (by proxy)	DeWine (by proxy)
	Ashcroft
	Abraham (by proxy)
	Sessions
	Feinstein

(6) Senator Hatch offered an amendment to ease incentive block eligibility restrictions for States with the lowest juvenile crime rates. The amendment was agreed to by unanimous consent.

(7) Senator Feinstein offered an amendment to provide for the designation of high intensity interstate gang activity areas. The amendment was agreed to by unanimous consent, with Senator Hatch reserving his right to file an amendment in the future to strike the prevention funds therein.

(8) Senator Feingold offered an amendment to provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children. The amendment was agreed to by unanimous consent.

The Senate Committee on the Judiciary, with a quorum present, met again on Thursday, July 24, 1997, at 9 a.m. The following rollcall votes occurred on the bill and amendments proposed thereto:

(1) Senator Specter offered an amendment to make improvements to grant programs, and for other purposes. The amendment was defeated by a rollcall vote of 8 yeas to 9 nays.

YEAS	NAYS
Specter (by proxy)	Hatch
Leahy	Thurmond (by proxy)
Kennedy (by proxy)	Grassley
Biden	Thompson (by proxy)
Kohl	Kyl
Feinstein	DeWine
Feingold	Ashcroft
Durbin	Abraham (by proxy)
	Sessions

(2) Senator Hatch offered the following list of amendments, which were agreed to en bloc, by unanimous consent:

(a) Senator Leahy's amendment, as modified, to provide enhanced penalties for gang-related activities, deter witness intimidation by gangs, penalize the use of paraphernalia, and eliminate the statute of limitations for murder and Class A offenses.

(b) Senator Leahy's amendment, as modified, to ensure citizen participation in the development of JJDP State Plans and to ensure the involvement of State Advisory Groups.

(c) Senator Leahy's amendment, as modified, to establish a Truth in Sentencing grant minimum allocation for small and/or safe States.

(d) Senator Leahy's amendment to prohibit misuse of the name or initials of the United States Marshals Service.

(e) Senator Leahy's amendment to delay the effective date of certain provisions of the Antiterrorism and Effective Death Penalty Act of 1996, relating to State crime victim funds.

(f) Senator Grassley's amendment, as modified, to provide for assistance for developing crime and delinquency prevention programs.

(g) Senator Grassley's amendment, as modified, to amend the Gun-Free Schools Act of 1994 to require a local educational agency that receives funds under the Elementary and Secondary Education Act of 1965 to expel a student determined to be in possession of an illegal drug, or illegal drug paraphernalia, on school property, in addition to expelling a student determined to be in possession of a gun or to have possessed, on a regular basis while not having attained the age of 18, a tobacco product or an alcoholic beverage.

(h) Senator Kennedy's amendment, as modified, to strike provisions repealing certain prevention programs, and to restore repealed prevention programs with modification to the GREAT Program.

(i) Senator Kennedy's amendment, as modified, to provide for a pilot program to replicate the Boston model of juvenile crime suppression and prevention.

(j) Senator Biden's amendment to provide for physical and sound separation of juveniles and adult inmates in Federal custody.

(k) Senator Biden's amendment, as modified, to revise requirement for drug testing so States must only test "appropriate categories" of offenders.

(l) Senator Biden's amendment to clarify that the new requirements concerning maintenance and distribution of juvenile records will not require States to modify their juvenile expungement laws.

(m) Senator Biden's amendment, as modified, to clarify that funds from the $500 million block grant cannot be used to expand, renovate, or construct facilities for adult offenders, but funds can be used to construct juvenile facilities co-located with adult facilities.

(n) Senator Biden's amendment, as modified, to allow juvenile prosecutor and court grants to more effectively address youth gangs and violence.

(o) Senator Biden's amendment to amend title IV of the JJDPA (Missing Children) to enable the National Center for Missing Children to operate the missing children hotline and resource center and provide authority to provide information on missing children and technical assistance to foreign governments.

(p) Senator Biden's amendment to provide a definition of "unit of local government" covering all types of political subdivisions.

(q) Senator Biden's amendment, as modified, to modify requirement to qualify for funding from $150 million grant program concerning deinstitutionalization of status offenders.

(r) Senator Kyl's amendment to permit residential substance abuse treatment grant funds to be used to provide nonresidential aftercare services.

(s) Senator Kohl's amendment to establish felony violations for the failure to pay legal child support obligations and for other purposes.

(t) Senator Kohl's amendment to strike section 305.

(u) Senator DeWine's amendment to encourage entities seeking money under the discretionary Byrne program to adopt gun tracing initiatives wherein weapons seized from criminals are traced in an effort to identify gun traffickers.

(v) Senator DeWine's amendment to provide for a process to authorize the use of clone pagers, and for other purposes.

(w) Senator Feingold's amendment to make an amendment relating to the use of juvenile crime control and juvenile offender accountability block grants.

(x) Senator Feingold's amendment to make amendments relating to the purposes of grants to prosecutors and courts for State juvenile justice systems.

(y) Senator Ashcroft's amendment to specify that block grants may be used by States to target, curb, and punish adults who use minors to commit crimes.

(z) Senator Durbin's amendment to restore earmark for the National Runaway Switchboard.

(aa) Senator Abraham's amendment, as modified, to correct a technical error.

(bb) Senator Torricelli's amendment, as modified, to direct the Attorney General to track the age of hate crime offenders.

(cc) Senator Session's amendment to eliminate civil monetary penalty surcharge and authorize Block Grants to be funded from the Violent Crime Trust Fund.

(dd) Senator Hatch's amendment to establish three flagship Boys & Girls Clubs.

(3) Senator Feingold offered an amendment to provide certain assurances for juvenile justice system employees. The amendment was agreed to by unanimous consent.

(4) The Committee adopted the Hatch substitute amendment, as amended, by unanimous consent. The Committee then voted to favorably report S. 10, with an amendment in the nature of a substitute, by a rollcall vote of 12 yeas to 6 nays.

YEAS	NAYS
Hatch	Leahy
Thurmond (by proxy)	Kennedy (by proxy)
Grassley	Biden
Specter (by proxy)	Kohl
Thompson (by proxy)	Feingold
Kyl	Durbin
DeWine	
Ashcroft	
Abraham (by proxy)	
Sessions	
Feinstein	
Torricelli (by proxy)	

V. REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee, after due consideration, concludes that the act will not have significant regulatory impact.

The Committee notes that its conclusion is supported by the cost estimate provided by the Congressional Budget Office (CBO), set out in section VI of this report. The CBO noted in its estimate that "S. 10 contains no intergovernmental or private-sector mandates as defined in UMRA [Unfunded Mandates Reform Act] and would impose no costs on state, local, or tribal governments."[65]

The Committee also wishes to address an aspect of paragraph 11(b) of rule XXVI not addressed by the CBO Cost Estimate. Rule XXVI (11)(b)(1)(C) requires a determination by the reporting Committee of "the impact on the personal privacy of the individuals affected." After due consideration, it is the Committee's determination that S. 10 will have no significant impact on the personal privacy of individuals affected by enactment of the Act.

S. 10 generally requires, inter alia, that Federal court proceedings involving juvenile offenders be open to the public (section 102) and reforms the practices of the Federal Government relating to the use and dissemination of Federal criminal records of juveniles tried or adjudicated in Federal court (section 108). S. 10, through the operation of the juvenile crime control and juvenile offender accountability incentive block grant program (section 303), also encourages States to reform and improve the retention and dissemination of State juvenile criminal records. It is the Committee's view that these provisions will have no significant impact on the personal privacy interests of any person.

Regarding open Federal juvenile proceedings, the Committee notes as an initial matter that open criminal proceedings are a cherished hallmark of our justice system. So great was our Founding Fathers' belief in the need for open criminal proceedings that they included in the Bill of Rights the requirement that "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial * * *."[66] The inclusion of this provision in the Bill of Rights, in the view of the Committee, is conclusive evidence that there is no significant privacy interest to be protected by closed juvenile criminal proceedings.

Moreover, it is the Committee's view that the prophylactic principles which underlie the Sixth Amendment, protecting the accused from abuse in secret court proceedings and promoting public confidence in the criminal justice system, are as important today as they were in 1791. It is the Committee's view that these principles apply with equal force in the case of crimes and offenses committed by juveniles.

Closed juvenile criminal proceedings are in direct conflict with these principles, and thus should be sustained only for the most compelling of reasons. The Committee finds these reasons lacking. Closed juvenile proceedings evolved in an era when juveniles typically engaged in far less severe offenses than they do today. Closed proceedings were justified by the theory that the reputations of juvenile offenders would be irreparably tainted by public proceedings, and that juvenile offenders should have the opportunity to reform without acquiring this taint. The changing nature of juvenile crime has long since demonstrated these theories hollow, and the Committee believes that the time has come to apply to the Federal juvenile justice system the principles of openness that have always governed the adult criminal justice system.

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[65] Congressional Budget Office cost estimate, S. 10, "Violent and Repeat Juvenile Offender Act of 1997," Sept. 23, 1997, at p. 5.

[66] U.S. Constitution, amend. 6.

Similar principles inform the Committee's consideration of any privacy interests affected by the retention and dissemination of juvenile criminal records, either by the States or by the Federal Government. The Committee notes that there is no recognized privacy interest in suppressing the dissemination of criminal records.[67] As with closed proceedings, of course, there may once have been a time at which the interests of rehabilitating juvenile criminals justified more stringent controls on juvenile criminal records than apply to adult records. In the Committee's view, however, that time, if it ever existed, is past, and the interests of promoting

VI. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 23, 1997.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 10, the Violent and Repeat Juvenile Offender Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for federal costs), Leo Lex (for the state and local impact), and Matt Eyles (for the private-sector impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 10—Violent and Repeat Juvenile Offender Act of 1997

SUMMARY

S. 10 aims to encourage and strengthen the prosecution of juvenile offenders. This legislation would authorize appropriations for many programs relating to juvenile crime. Assuming the appropriation of the specified and estimated amounts, CBO estimates that enacting this bill would result in additional discretionary spending of about $1.8 billion over the 1998–2002 period. Because S. 10 could affect direct spending and revenues, pay-as-you-go procedures would apply. We expect, however, that changes in direct spending and revenues would not be significant.

S. 10 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would impose no costs on state, local, or tribal governments. The bill would ease a number of grant conditions and provide new funding for juvenile crime control programs.

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[67] See, e.g., *Paul* v. *Davis*, 424 U.S. 693, 713 (1975) (wrongly identifying a man as an active shoplifter in a police flier does not implicate a privacy interest protected by the U.S. Constitution); *Russell* v. *Gregoire*, No. 96–35398, 1997 U.S. App. LEXIS 23074 (9th Cir., Sept. 4, 1997) (accumulation and public dissemination of information on a sex offender in compliance with Washington State sex offender registration statute ("Megan's Law") implicates no protected privacy interest).

This bill would impose several new private-sector mandates as defined in UMRA. CBO estimates that the aggregate direct cost of the new requirements in the bill would fall below the $100 million statutory threshold in UMRA.

DESCRIPTION OF THE BILL'S MAJOR PROVISIONS

Title I of S. 10 would revise certain procedures in federal courts to encourage—but not require—more prosecution of serious juvenile offenders.

Title II would provide for increased criminal penalties for crimes relating to juvenile gangs. This title also would authorize appropriations of $100 million annually for 1998 through 2002 for grants for high-intensity interstate gang activity areas.

Title III would:

- authorize appropriations of $700 million for each of fiscal years 1998 through 2002 for juvenile crime control grants and related programs;
- authorize appropriations of $50 million for each of fiscal years 1998 through 2002 to the National Institute for Juvenile Justice and Delinquency Prevention for research, demonstration, and evaluation programs;
- authorize the appropriation of such sums as may be necessary for each of fiscal years 1998 through 2001 for administration and operation of the Office of Juvenile Crime Control and Accountability;
- authorize the appropriation of such sums as may be necessary for each of fiscal years 1998 through 2002 for runaway and homeless youth programs;
- authorize the appropriation of $1 million per year for fiscal years 1998 through 2002 for temporary demonstration projects for youth in rural areas;
- authorize the appropriation of such sums as may be necessary for fiscal year 2002 for missing children grant programs;
- authorize the appropriation of $3 million per year for fiscal years 1998 through 2000 for a pilot program to promote successful juvenile crime reduction strategies;
- repeal several sections of the Violent Crime Control and Law Enforcement Act of 1994; and
- require the Attorney General, subject to amounts provided in advance in appropriations acts, to reimburse state and local governments for costs to incarcerate illegal juvenile aliens.

Title IV would authorize the appropriations of $15 million for fiscal year 1998 to establish at least three flagship Boys and Girls Clubs of America.

Title V would provide for increased criminal penalties, including mandatory minimum sentences and provisions for asset forfeiture, for many crimes relating to juveniles. The title also would authorize the appropriation of such sums as may be necessary for fiscal years 1998 through 2001 to provide for guardians of victims of child abuse.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 10 is shown in the following table. The net change in estimated outlays is negative in fiscal year 1998 because the bill would repeal several existing authorizations of appropriations and spending from the new authorizations is likely to be at a slower rate than for the repealed authorizations. In addition to the discretionary spending shown in the table, S. 10 could lead to increases in both revenues and direct spending from provisions relating to criminal fines and asset forfeiture; CBO estimates that any such increases would be less than $500,000 in each year.

SPENDING SUBJECT TO APPROPRIATION

[By fiscal years, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Spending Under Current Law:						
Authorization Level[1]	264	706	710	659	29	0
Estimated Outlays	193	696	711	686	232	115
Proposed Changes:						
New Authorizations:						
Estimated Authorization Level	0	1,004	993	996	997	1,005
Estimated Outlays	0	244	627	949	996	996
Repealed Authorizations:						
Estimated Authorization Level	0	−678	−682	−631	0	0
Estimated Outlays	0	−487	−581	−597	−204	−109
Net Changes:						
Estimated Authorization Level	0	326	311	365	997	1,005
Estimated Outlays	0	−243	46	352	792	887
Spending Under S. 10:						
Estimated Authorization Level[1]	264	1,032	1,021	1,024	1,026	1,005
Estimated Outlays	193	453	757	1,038	1,024	1,002

[1] The 1997 level is the amount appropriated for that year. The amounts shown for subsequent years are the levels authorized under current law (at the top of the table) and those that would be authorized by S. 10 (at the bottom of the table).

The costs of this legislation fall within budget function 750 (administration of justice) and 500 (education, training, employment, and social services).

BASIS OF ESTIMATE

Spending subject to appropriation

For the purposes of this estimate, CBO assumes that the amounts authorized in the bill or under current law will be appropriated near the start of fiscal year 1998 and by the start of each fiscal year thereafter, with outlays following the historical spending trends for the authorized activities. For existing programs for which the bill authorizes the appropriation of such sums as may be necessary, CBO estimated future authorization levels by assuming continued funding at the level appropriated for fiscal year 1997 with adjustments for anticipated inflation.

Implementing the longer prison sentences mandated by S. 10 would result in additional federal costs to accommodate prisoners for longer periods of time. Based on a preliminary assessment by the United States Sentencing Commission, however, we estimate that such costs probably would be less than $500,000 annually through fiscal year 2002. Spending in later years could be greater if the federal courts adopt the harsher sentencing guidelines allowed by S. 10. Any increased costs to the prison system would be subject to the availability of appropriated funds.

S. 10 would direct the Attorney General to reimburse state and local governments for their costs to incarcerate illegal juvenile aliens, subject to the availability of appropriations. Although little reliable data are available on the population of illegal juvenile aliens incarcerated by state and localities, about 80 percent of adult aliens incarcerated in state and local prisons are probably located in seven states—Arizona, California, Florida, Illinois, New Jersey, New York, and Texas. Based on preliminary information from these states regarding the number of juvenile delinquents in each state who might be illegal aliens, and extrapolating to the entire country, we estimate that the reimbursement required by the bill would be roughly $30 million annually. Costs for reimbursement could be higher in later years if juvenile incarceration rates rise.

Direct spending and revenues

The imposition of new and enhanced criminal fines in S. 10 could increase governmental receipts, but we estimate that any increase would be less than $500,000 annually. Criminal fines are deposited in the Crime Victims Fund and are spent in the following year. Thus, any change in direct spending from the fund would match the increase in revenues with a one-year lag.

New forfeiture provisions in S. 10 would result in more assets seized and forfeited to the federal government. The proceeds from asset forfeitures are deposited in the Assets Forfeiture Fund of the Department of Justice as revenues and spent out of that fund in the same year. However, we estimate that any increase in revenues or spending related to asset forfeiture would be less than $500,000 annually.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act of 1985 specifies pay-as-you-go procedures for legislation affecting direct spending or receipts. Enacting S. 10 would affect direct spending and receipts because of provisions relating to criminal fines and forfeiture of assets. CBO estimates, however, that these provisions would increase direct spending and receipts by less than $500,000 annually.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 10 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Some grant conditions would be altered slightly; these changes would make it slightly easier for state, local, or tribal governments to acquire federal funding. New juvenile crime control grants totaling $700 million annually from fiscal years 1998 through 2002 would replace or consolidate a number of grant programs in addition to increasing overall funding.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 10, the Violent and Repeat Juvenile Offender Act of 1997, would impose new private-sector mandates, as defined in UMRA, in several different areas. CBO estimates that the aggregate direct cost of the new requirements in the bill would fall below the $100 million statutory threshold in UMRA.

First, section 205 would prohibit certain activities by criminal gang members by making it illegal "to use any facility in, or travel in, interstate commerce or foreign commerce * * * to recruit" or coerce other individuals into becoming or remaining gang members. The direct cost, as defined in UMRA, of that prohibition would be negligible.

Second, section 213 would authorize federal courts, upon the request of a government attorney or law enforcement agency, to order providers of paging services and other persons to furnish information, facilities, and technical assistance to law enforcement officers who use clone pagers in surveillance operations. Clone pagers are communications devices (pagers) used by officers—unknown to senders or the intended recipients of paging messages—to monitor individuals who are believed to be engaged in illegal activity. In practice, they are equivalent to a telephone that rings simultaneously at one's home and at police headquarters. Clone pagers would, for example, improve the ability of law enforcement officers to track phone calls to the page of a known drug dealer.

In general, law enforcement agencies reimburse businesses in the personal communications industry for the cost of paging devices and services furnished to officers. Provided that law enforcement agencies continue to reimburse providers of paging services and that those agencies do not significantly increase usage of the services, CBO estimates that the direct cost of provisions in section 213 would not be substantial.

Third, section 503 would require all federally-licensed firearms dealers to make available for sale secure gun storage or safety devices, except in rare instances when such devices may be temporarily unavailable due to reasons beyond dealers' control. Firearms dealers who fail to comply with the requirement could have their license revoked.

CBO estimates that the aggregate direct cost of the additional requirement imposed on firearms licensees would be relatively minor. Of the approximately 80,000 Class 1 federal firearms license-holders (i.e., dealers), a large portion now offer safety devices for sale and would continue to do so in the absence of federal legislation. Smaller dealers, particularly licensees who sell their products at weekend trade shows or that have only a small section of their retail business devoted to the sale of firearms, would likely be the two groups most affected by the new requirement. If the typical small firearms dealer paid, on average, $2 to $3 per safety device and needed to stock 20 safety devices to comply with the new requirement, the direct cost would be about $50 per dealer. Assuming one-quarter to one-half of licensees do not currently carry safety devices, the aggregate direct cost of the new mandate would be between $1 million and $2 million a year.

Fourth, section 511 would prohibit businesses that are engaged in processing of personal information—for example, an individual's address or social security number—from employing certain categories of individuals. Those businesses would be forbidden from using prison inmate labor and persons who are required to register their address with state law enforcement agencies because of a conviction of a criminal sexual offense or certain offenses against a minor. No data is currently available on the use of prison inmate labor or other types of criminal offenders by data processors in the private sector, but many data processing firms perform felony background checks on employees prior to hiring. Thus, it is unlikely that the direct cost of the restrictions in section 511 would be large. S. 10 could have a noteworthy impact on the data processing business of Federal Prison Industries, Inc. (UNICOR), but UNICOR is not counted as part of the private sector for the purposes of UMRA.

Fifth, section 513 would restrict the use of United States Marshals Service (USMS) badges, logos, insignias, or likenesses by individuals and businesses in connection with any advertisement, circular, book, pamphlet, software, publication, play, motion picture, broadcast, telecast, or other production. Except with the written permission of the Director of the United States Marshals Service, S. 10 would prohibit the imitation of anything that could be associated with the USMS on any item of apparel (if it could be reasonably believed that the person wearing the item was acting under the authority of the Marshals Service) and the use of any logo or likeness that conveys the impression that the Marshals Service endorses or approves of specific goods or services.

The practical impact of provisions in Section 513 is to place the United States Marshals Service on equal footing with other federal law enforcement agencies, such as the Federal Bureau of Investigation or the Drug Enforcement Agency, to restrict the portrayal of its likeness or logo without prior approval. In many cases where the likeness or logo of the USMS is used, particularly in the motion picture industry, prior approval is already obtained. In addition, S. 10 would reduce the likelihood that an individual could falsely represent himself as an officer in the Marshals Service.

Direct costs could be imposed by the new prohibition on businesses that are unable to obtain permission from the USMS Director and, therefore, require to alter existing goods and services that contain a USMS logo or likeness. CBO cannot estimate the direct costs of complying with the ban, but those costs would probably be small.

Estimate prepared by: Federal costs: Mark Grabowicz; impact on State, local, and tribal governments: Leo Lex; impact on the private sector: Matt Eyles.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

VII. MINORITY VIEWS OF SENATORS LEAHY, KENNEDY, BIDEN, KOHL, FEINGOLD, AND DURBIN

I. INTRODUCTION

This bill chooses sound bite over sound policy. It reacts to the headlines about remorseless young criminals committing horrific crimes with a hodgepodge of so-called "get tough" fixes, an amalgam of good and bad ideas on how to spend Federal funds, and a one-size "Washington-knows-best" approach to juvenile crime that will undoubtedly worsen the juvenile crime problem.

This is particularly unfortunate because there is no need to reinvent the wheel on juvenile crime control. In response to the explosion of juvenile crime that began in 1985, States and localities across the country have been crafting comprehensive approaches to this problem. These efforts are now beginning to bear fruit. After a decade of grim statistics, juvenile crime is beginning to decrease. Recent figures show arrests for violent juvenile crimes are down 12 percent since 1994, juvenile arrests for murder are down 31 percent since 1993, and violent crimes committed by juveniles were down a remarkable 25 percent in 1995 alone, bringing the victimization rate down to 1973 levels.

Although effective juvenile crime control strategies are working in cities around the Nation, the results in Boston are most impressive. In Boston:

- No juvenile has been killed with a firearm since July 1995.
- Juvenile homicides dropped 80 percent from 1990 to 1995.
- The juvenile arrest rate for firearms-related assaults declined 60 percent in 1996 alone, and has declined 81 percent since July 1995.
- Overall homicides dropped 36 percent in 1996, and are down an additional 33 percent so far in 1997.
- Violent crime in the Boston public schools dropped 20 percent in the 1995–96 school year compared to the previous year.

Boston has achieved these results without adopting any of the strategies S. 10 seeks to impose on the entire country—such as prosecuting more juveniles as adults, housing nonviolent juvenile offenders in adult facilities, and spending huge sums of money on new facilities and juvenile recordkeeping. Rather, the key to success in Boston is a comprehensive strategy—neither a "liberal" nor "conservative" approach—that involves the entire community, police and probation officers, clergy and community leaders, even the gang members themselves. The strategy is based on three parallel strong commitments—tough, targeted enforcement; heavy emphasis on afterschool prevention programs that provide alternatives to criminal gang membership for at-risk youth; and aggressive steps to take guns out of the hands of criminal gang members and other violent juvenile offenders. Neglecting any of these commitments unravels the whole strategy. The success in Boston reveals the false choice presented by the majority between law enforcement and prevention. As virtually every expert on the subject agrees, we can and must do both.

We do not suggest that Boston's is the only juvenile crime strategy that works or that our juvenile crime problem has been solved. Indeed, we have a long way to go before anyone can declare victory. Still, efforts in Boston and other jurisdictions are demonstrating that we are making progress, and there are solutions that work.

Unfortunately, S. 10 ignores the innovative formulas for success that have been adopted in Boston and elsewhere. Instead of promoting comprehensive strategies with proven success, S. 10 relies primarily on across-the-board "get tough" sounding measures that are not only ineffective, but fail to grasp the complexity of the problem. Our youth violence problem requires that we be concerned not only with the small percentage of very violent youth who, we agree, must be dealt with severely. We must also pay attention to the far greater number of young, nonviolent offenders who are just beginning their criminal careers but can still be turned around. This includes the 600,000 juveniles who were arrested for property crimes in 1995.

Equally important are the 39 million Americans younger than 10 years old—the so-called baby boomerang—who will be entering their most crime prone years by the turn of the century. Many of these 39 million children are living in dysfunctional families, trying to survive in dangerous neighborhoods, attempting to carry on without an adult role model, and being forced to grow up too fast. They are also among the millions of children whose parents are working until 6 or 7 o'clock in the evening and cannot afford to be home during the critical afterschool hours.

If we ignore the breadth of our problem, we will be doing a great disservice to the Nation. For if we focus exclusively on our most violent youth and neglect those we can still influence positively, we will inevitably return to this subject a decade from now, and face increasing youth crime rates. Similarly, if we indiscriminately tear down principles and institutions that have worked well to divert young people from crime and delinquency, we will be making things worse for future generations, not better.

This bill takes us in the wrong direction for exactly these reasons. In its apparent zeal to "get tough" on violent youth, it fails to take the steps necessary to improve the juvenile justice system in ways that will turn young people in trouble away from a life of crime, drugs and violence. In so doing, S. 10 also violates the fundamental principle of "first, do no harm" by eviscerating protections for juvenile offenders that have shielded them from the poisonous influence of hardened adult criminals and by encouraging the Federal and State governments to try many more juveniles as adults, even though the great weight of the evidence suggests that this policy will worsen, not improve our youth violence problem.

We support a comprehensive approach to youth violence along the lines of the Boston model. We should be tough, when being tough is necessary. But we should also take into account what law enforcement, prosecutors, judges, and juvenile justice experts are saying about the need to prevent crime before it occurs. Law enforcement officers are correct that we simply cannot arrest our way out of the juvenile crime problem. Our comprehensive approach is tailored to address each of the three aspects of the juvenile crime problem—violent and habitual offenders, nonviolent offenders just entering the juvenile justice system, and at-risk youth—and gives discretion to the States to address their own particular needs.

Violent And Habitual Offenders: Aggressive Enforcement, Not Merely Trying Them As Adults

We recognize that when it comes to the relatively few serious, habitual violent offenders, there is little that the juvenile justice system can offer them. They ought to be confined for as long as necessary. But merely changing our laws to facilitate adult prosecutions of broad categories of juvenile offenders will do little or nothing to reduce violent crime by juveniles. Instead, we need to invest in additional resources for our juvenile prosecutors and courts so they can impose quick, certain punishment against juvenile lawbreakers, and send the message that anti-social behavior will result in immediate and serious consequences.

The bill does far too little in this area. Boston has compiled its remarkable record by engaging in concerted law enforcement strategies of targeting criminal gangs, breaking up illegal gun markets, increasing the visibility of the police in gang and drug-infested neighborhoods, and putting probation officers out on patrol with the police, where they can assist in preventing crime before it happens. These are the types of locally initiated approaches that we ought to be supporting and replicating in other communities, but S. 10 provides insufficient funding for these purposes.

Nonviolent Offenders Just Entering The System: Retain Protections Keeping Them Away From Adult Criminals

Without justification, this bill eviserates the Federal requirements that for the past quarter century have directed States and localities to keep juveniles out of adult jails and maintain strict physical and sound separation between juveniles and adults in custody. We do not accept the majority's premise that the States' juvenile justice systems are failing across the board. The 25-percent decrease in the juvenile violent crime rate in 1995 is a strong indication that many of the recent juvenile justice reforms implemented by the States are showing results. Recidivism rates are not increasing, and still only about one-third of those who enter the juvenile justice system ever commit a second offense.

According to almost all the available evidence, S. 10's reduced protections for youth in the juvenile justice system—primarily nonviolent or first-time offenders—will increase the likelihood of juveniles committing additional crimes once they leave jail, and the incidence of jail suicides and prison assaults. Incarcerating these children with adults is not the answer.

Instead of heading down this ill-conceived path to more crime, we ought to be assisting States and localities to improve their juvenile justice systems by expanding the sentencing options available to juvenile judges, increasing the availability of aftercare services for offenders once they leave custody, and supporting other locally based initiatives that are working to steer juvenile offenders away from crime. The House of Representatives, in a bipartisan bill (H.R. 1818) that recently passed with overwhelming support, recognized the importance of maintaining the core protections and taking steps to improve our juvenile justice systems. Unfortunately, S. 10 did not follow suit.

At-Risk Youth: Invest In Crime Prevention

The bill is woefully weak on prevention. In particular, we are greatly disappointed that S. 10 provides virtually no guaranteed new funding for afterschool programs to provide safe havens from crime and drugs to millions of at-risk youth. The consensus among police, prosecutors, crime victims and juvenile justice experts is that any serious effort to address youth violence must emphasize prevention. As Boston's Police Commissioner says, "you can't be credible with enforcement without also being credible on prevention." Yet, S. 10 ignores these pleas and eliminates some prevention programs and underfunds others. While we all support Boys and Girls Clubs, it is necessary to expand our prevention efforts to other community-based organizations so that they can reach many more children across the nation.

Trust the States: No One-Size-Fits-All Solutions

Despite the majority's claims to the contrary, S. 10 adopts a top-down, Washington-knows-best approach, prescribing in minute detail changes that States must make in their systems to qualify for Federal funds from a newly created block grant. This approach is particularly ill-advised since the States are already taking the lead in reforming their juvenile justice systems. Since 1992, 47 States and the District of Columbia have enacted substantial reforms in a number of areas, such as opening up access to juvenile records. The new mandates contained in the so-called "Incentive Block Grant Program" are overly prescriptive and prohibitively costly to the States.

Characteristic of S. 10's "Washington knows best" approach is the highly prescriptive records mandate containing a page of statutory language detailing how States must compile their records on juvenile offenders to qualify for Federal funds. We agree that States should improve their recordkeeping, but we should not second-guess reforms that are already underway. This level of Federal intrusion is not necessary.

We do not believe that S. 10 is a lost cause. The bill has been substantially improved since it was first introduced and some important amendments were added during the Committee markup. However, a number of other important changes will have to be made before S. 10 can be effective and warrants our support.

II. S. 10 Will Worsen Juvenile Crime by Encouraging Adult Prosecution of Violent and Non-violent Juvenile Offenders and by Providing Inadequate Support for Law Enforcement Initiatives That Work

Encouraging adult prosecution of juvenile offenders—violent and nonviolent alike—at both the State and Federal level is a lynchpin of S. 10's strategy for reducing juvenile crime. This strategy is a vivid illustration of the proponents" failure to understand the complexities of the juvenile crime problem and their tendency to promote solutions that sound tough but actually do more harm than good. Investing in effective law enforcement strategies—tested and proven at the local level—will do far more to reduce youth violence.

A. PROSECUTING JUVENILES AS ADULTS WILL WORSEN THE CRIME PROBLEM

It is important to understand the precise nature of juvenile crime. Approximately 5 percent of juvenile offenders—the murderers, rapists, aggravated assailants and drug traffickers—pose a serious and immediate threat to public safety.[1] The remaining 95 percent of juvenile offenders are traveling down the wrong path, but have committed primarily property crimes and low-level drug offenses.

Unfortunately, S. 10 treats all juvenile offenders as if they fall into the relatively small category of "serious violent offenders," and encourages adult prosecution of them. It makes wholesale changes in Federal law, adopting a "one size fits all" approach that would give Federal prosecutors unfettered discretion to prosecute as an adult all juvenile felony offenders, regardless of whether they committed a violent and nonviolent offense. It also encourages States to prosecute juvenile offenders as adults.

We believe it is necessary to ensure that violent juvenile offenders are confined for sufficient periods of time to provide accountability, protect the public, and deter other offenders. But trying and sentencing broad categories of juvenile offenders as adults will exacerbate, not reduce, the juvenile crime rate. Indeed, whatever the policy goals of the majority may be—enhancing deterrence, increasing punishment, or reducing recidivism—research suggests that none of them will be advanced by prosecuting juvenile offenders in adult criminal court.

Perhaps the most compelling evidence is that there is absolutely no correlation between the number of juveniles tried as adults and the juvenile crime rate. States with high transfer rates do not necessarily have lower crime rates and States with fewer transfers do not have more juvenile crime.[2] Florida and New York, States with two of the most aggressive policies of trying juveniles in adult court, have the two highest juvenile violent crime rates in the country.[3]

While we acknowledge that more research is needed in this area, the few reliable studies conducted have indicated that transferring juvenile offenders to the adult criminal court system does not increase the severity or certainty of sanctions. A 1991 study by Jeffery Fagan through the National Institute of Justice compared the case outcomes, sanctions imposed, and recidivism rates of 15- to 16-

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[1] Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: 1997 Update on Violence," p. 17.

[2] Eric Lotke and Vincent Schraldi, "An Analysis of Juvenile Homicides: Where They Occur and the Effectiveness of Adult Court Intervention," p. 9 (1996).

[3] Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: 1997 Update on Violence," p. 22; Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: A Focus on Violence," p. 29 (May 1995) (noting that Florida prosecutors filed charges against 7,000 juvenile offenders in adult court in 1993).

years-old felons in two States—New York, where they are tried as adults, and New Jersey, where they are handled in juvenile court.[4] The data showed that during the period 1985–86, convictions were no more likely in adult court, punishment was imposed less swiftly, incarceration was less likely, and sentences were nearly identical.[5]

A study of youthful offenders in Maryland reached similar results, finding that 59 percent of the youths handled in the juvenile system received probation or incarceration, but only 37.5 percent received such sanctions in the adult system.[6] These results cast doubt on the majority's premise that trying juveniles as adults will increase the accountability of our criminal justice system.

We also have substantial doubt as to whether adult prosecution of juvenile offenders will increase public safety by reducing recidivism. A comparison of 2,738 juvenile offenders in Florida transferred to the adult system and similar offenders who remained in juvenile court showed that "by every measure of recidivism employed, reoffending was greater among transfers than among the matched controls." [7] Not only were those transferred more likely to re-offend, but they did so almost twice as quickly as the offenders who remained in juvenile court. Fagan reached similar conclusions, finding that recidivism rates were higher and rearrests occurred more quickly for the juveniles tried in New York criminal courts than for their counterparts adjudicated in New Jersey juvenile courts.[8] This research suggests that the policy being advanced by the majority may actually prove counterproductive—transferring juveniles to the adult system, where some of them are sentenced to adult institutions, may turn the youthful offenders into even worse criminals. The folly of this endeavor was described well by Fagan:

> If criminalization is intended to instill accountability, its effects are diluted by the lengthier case processing time. If it is intended to protect the public by making incarceration more certain and terms lengthier, it fails also on this count.[9]

Another consequence of trying more juveniles as adults is that young people will be confined in adult correctional institutions where they may have direct contact with adult offenders. Although juveniles 18 or younger will be housed separately from adults in the Federal system due to Senator Biden's unanimously endorsed amendment, the same cannot be said for youthful offenders tried as adults in many States. As of 1994, 36 States permitted young inmates tried as adults to be housed with adult inmates, leading to the incarceration of 4,730 persons age 16–17 in adult correctional facilities.[10]As we describe later in this report, nothing good can come from permitting contact between young offenders and hardened adult criminals.

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[4] Jeffery Fagan, "The Comparative Impacts of Juvenile and Criminal Court Sanctions on Adolescent Felony Offenders" (1991).

[5] Id., pp. 63–64.

[6] "Sanctioning of Youthful Offenders in Maryland: Comparison of Juveniles Handled in the Adult System and Youth Returned to the Juvenile Justice System" (1996).

[7] Donna M. Bishop, Charles Frazier, et al., "The Transfer of Juveniles To Criminal Court: Does It Make a Difference?" 42 Crime & Delinquency 171 (1996).

[8] Fagan, supra, p. 64.

[9] Id.

There are additional problems associated with prosecuting broad categories of juveniles as adults. For example, in 1994, the majority of juveniles waived into adult courts were charged with nonviolent offenses, mostly property crimes and drug offenses.[11] Prosecuting the 15-year-old first-time, low-level drug offender as an adult is inefficient, costly and counter- productive.[12]

Despite the studies indicating that prosecuting young people in the adult criminal system will not increase accountability, reduce recidivism, or serve any other public policy interest, S. 10 makes a number of procedural changes to encourage the prosecution of more juveniles as adults in the Federal system. Most importantly, S. 10 removes Federal judges from any role in deciding whether a juvenile should be transferred to the adult system. Under current law, Federal judges have the ultimate decisionmaking power except in limited cases involving serious, repeat juvenile offenders. S. 10, however, eliminates the judicial role by giving Federal prosecutors unreviewable discretion to prosecute as adults any juvenile 14 and older who commits any Federal felony offense. The most serious felons can be charged directly as an adult by a U.S. attorney; other accused felons can only be charged as adults with the permission of the Attorney General.

We oppose the elimination of a judicial role in this critical process. Under current practice, prosecutors may seek the transfer of a juvenile to adult court and present all the reasons they believe this step is necessary and appropriate. Likewise, the advocate for the offender may present evidence in opposition to the transfer, such as indicators that the juvenile may be amenable to the treatment and rehabilitation available in the juvenile system.[13] Independent, neutral judges are in a far better position to weigh the relevant factors and reach the appropriate decision than Federal prosecutors. While we have great respect for our Federal prosecutors, their institutional role does not include evaluating the fitness of young people for prosecution in the adult system. And, prosecutors may be subject to political pressures that could improperly influence their decisions on the highly charged issue of trying juveniles as adults. Except in very limited circumstances involving the most serious offenders, we believe it is far better for prosecutors to continue in their traditional adversarial role and allow the ultimate decision to be made by a neutral judge, as we do in numerous other contexts.

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[10] Dale Parent, et al., "Key Legislative Issues In Criminal Justice: Transferring Serious Juvenile Offenders to Adult Courts," p. 5, National Institute of Justice: Research In Action (January 1997).

[11] Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: 1997 Update on Violence," p. 31.

[12] Prosecuting kids as adults also may exacerbate already existing racial tensions in the criminal justice system. At least one study has shown that prosecuting juveniles as adults "has a disproportionate impact on minority youths." "Getting Smart about Getting Tough: Juvenile Justice and the Possibility of Progressive Reform," 33 Am. Crim. L. Rev. 1299, 1314–17 (1996); see also Willing, "Tackling Teen Crime," USA Today, p. 1, Sep. 18, 1997 ("The weight of juvenile prosecutors seems to fall heaviest on blacks. In Jacksonville, about 57 percent of juveniles arrested last year were African-Americans. But on a recent day more than 85 percent of jailed juveniles were black.").

[13] These factors include the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile's response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems; and the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms, 18 U.S.C. 5032.

Senator Leahy sought to preserve a judicial role in determining the appropriateness of transferring particular juvenile offenders to adult status. Significantly, his amendment preserved unfettered, unreviewable Federal prosecutorial discretion in the most serious cases, that is, in all cases involving "serious violent felonies" and "serious drug offenses." In a case such as a 14-year-old with no prior record arrested for a nonviolent felony offense, the Leahy amendment still would have allowed the prosecutor—rather than the judge—to make the initial decision whether to charge a juvenile as an adult. However, this initial charging decision would then be subject to judicial review by the district court judge if the offender seeks a transfer to juvenile court. To avoid the delays that have dogged the current system both at the district court and appellate level, the Leahy amendment would have required the offender to seek a transfer within 20 days and prohibited a defendant from immediately appealing the judge's decision.

This amendment reflected an attempt to bring S. 10 into line with the practice of the vast majority of those States that permit prosecutors to make the determination in the first instance as to whether to prosecute a juvenile as an adult. Ten States give prosecutors the power to file charges against juveniles in adult court.[14] However, 7 of the 10 States have "reverse waiver" mechanisms in place similar to the structure of the Leahy amendment.[15] Such provisions permit certain juveniles charged as an adult to petition the court to be returned to juvenile court. Judges, therefore, play an important role in determining whether certain juveniles will be prosecuted as an adult.

There are only three States (Florida, Louisiana, and Michigan) where prosecutors possess the type of unfettered discretion that proponents of S. 10 are seeking for Federal prosecutors.[16] As noted earlier, Florida prosecutes more juveniles as adults than any other State, and yet only one State had a higher juvenile violent crime arrest rate in 1995. Moreover, the Justice Department did not request unreviewable prosecutorial discretion for all felony offenses and, in fact, supports allowing "certain juveniles to petition the court to be proceeded against as juveniles" since such a procedure "maintains an important balance between streamlining the Federal charging process and ensuring the appropriate safeguards for juveniles in the Federal system."[17] Despite this, and the compelling reasons for maintaining a judicial role in the process, the Leahy amendment was defeated.

S. 10 also unwisely encourages the prosecution of juveniles as adults in the Federal system by expanding the categories of offenders that are eligible for such treatment. Currently, juveniles under age 15 can only be tried as adults for a few serious offenses, such as murder and rape within U.S. territorial jurisdiction. Juveniles over age 15 may only be transferred to the adult system for violent or drug crimes.[18] S. 10, however, would permit adult prosecution of juveniles for *any* Federal felony and lowers the age of eligibility for adult prosecution to 14.[19] We simply do not believe that nonviolent 14-year-olds should be subject to adult prosecution and fail to understand why the majority believes it is necessary to broaden current law so extensively.

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[14] Office of Juvenile Justice and Delinquency Prevention, "State Responses to Serious and Violent Juvenile Crime," p. 5 (July 1996).

[15] Id.

[16] Id.

[17] Letter from Assistant Attorney General Andrew Fois to Chairman Orrin Hatch, conveying the views of the administration on S. 10 (July 9, 1997).

In sum, we are convinced that the intent and effect of S. 10 will be to increase the number of juveniles tried as adults in Federal court, which we believe to be unwise, unwarranted, and a step backward in our efforts to reduce juvenile crime.

B. S. 10 GIVES SHORT SHRIFT TO ENFORCEMENT STRATEGIES THAT WORK, AND PROVIDES INADEQUATE FUNDING TO JUVENILE PROSECUTORS AND COURTS

This bill adopts strategies that are either ineffective or counterproductive, while virtually ignoring other enforcement measures that work and are critically needed. For example, S. 10 does not provide local prosecutors and courts with the resources necessary to prosecute juveniles and use other innovative methods to ensure that juveniles understand that criminal acts carry swift and certain consequences.

Juveniles all too frequently are not deterred from committing crime because our prosecutors and courts are overwhelmed with cases and cannot dedicate the resources and attention to each case that it deserves. Inadequate resources for the juvenile justice system not only lead to backlogs and delays, but also frustrate the ability of our prosecutors to analyze evidence, speak with witnesses, and prepare their cases. The result too often is "revolving door justice," where individuals are cycled through the system and only the most violent offenders receive serious attention. Other youth, in the early stages of their criminal careers, learn that they can continue to break the law with impunity.

A recent study of the juvenile courts in Cook County, Illinois confirmed this trend, noting that 70 percent of all juvenile cases were dismissed for lack of evidence or the failure of witnesses to appear.[20] The author of the report remarked that:

> You have lots more cases but almost the same number of judges and prosecutors, and they can only do so much work and prove a certain number guilty. So all these kids are brought in on criminal charges and then most are let go. It fosters cynicism about the court, makes the public and crime victims mad and teaches young people that justice is a joke.[21]

With more resources, communities also would be able to replicate innovative enforcement initiatives such as those adopted in Boston.

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[18] Juveniles over age 16 may be proceeded against directly as adults, however, if they are repeat violent or drug offenders. 18 U.S.C. 5032.

[19] The age of eligibility would actually be raised from 13 to 14 for a limited number of offenses.

[20] Fox Butterfield, "With Juvenile Courts in Chaos, Some Propose Scrapping Them," New York Times, p. A1 (July 21, 1997).

[21] Id.

For example, under "Operation Night Light," probation officers and police patrol the streets together and make unannounced visits to homes to ensure that juvenile offenders are in compliance with the terms of probation. If an offender is not in compliance, a swift arrest is made, and the offender is immediately held accountable in court. Probation officers and police frequently make unannounced visits as early as the day after the juvenile was placed on probation in order to send a message to the juvenile offender that actions have consequences. The compliance rate with the terms and conditions of probation has increased from 17 percent to over 50 percent since the implementation of "Operation Night Light".

And under Boston's "Operation Cease Fire," prosecutors cooperate with police officers and community leaders to target hot spots of gang activity. These groups meet with gang members, tell them there will be zero tolerance for violence, and discuss the precise consequences of violating the law. Firearm homicides of young people have dropped 64 percent since Operation Cease Fire went into effect in May 1996.

Local prosecutors, police and probation officers across the Nation are developing similar enforcement strategies that are beginning to show progress. Many others, however, are struggling to keep their heads above water. One of the most effective ways we can combat the youth violence and gang problem is to provide the necessary resources to prosecutors and courts so they can do their jobs effectively.

Despite the obvious need for additional resources targeted specifically to prosecutors and courts, S. 10 as introduced provided no new funding in this area. The chairman's mark improved on this by providing $50 million for hiring prosecutors, public defenders and court personnel. The bill was further strengthened when the Committee accepted an amendment from Senator Biden expanding use of these funds to programs like Operation Night Light and Operation Cease Fire, and an amendment from Senator Feingold adding prosecution of interstate criminal gang activity as a permissible use.

However, this funding level falls far short of an adequate commitment. The president of the National District Attorneys Association, William L. Murphy, pointed out the inadequacy of this funding:

> The proposals offered in the [Chairman's mark] are of limited value. The average district attorney couldn't afford to hire and retain a specialized juvenile prosecutor on the meager grant monies that would be available.

Like the National District Attorneys Association, we believe that an additional $100 million—as called for in President Clinton's budget—is warranted. Unfortunately, proponents of S. 10 fail to put their money where their mouth is, and instead offer a series of tough-sounding measures that will prove ineffective and will actually worsen the crime problem.

III. S. 10 Will Worsen Our Juvenile Crime Problem by Permitting Contact Between Juvenile and Adult Offenders

By focusing almost exclusively on violent offenders, S. 10 does very little to address the growing number of nonviolent offenders, just beginning their criminal careers, who can still be steered away from gangs, drugs, and violence. But even worse, with virtually no analysis or documentation, the majority casually asserts that the "core protections" of the Juvenile Justice and Delinquency Prevention Act of 1974—which have served to protect juvenile offenders like them from the corrupting influence of adult offenders—have been counterproductive and should be radically amended. Despite the majority's assertions to the contrary, the bill undoubtedly would permit physical contact between juveniles and adults in custody. It would also permit juveniles to be placed in cells next to adult offenders where they could have unrestricted communication for up to three days. Indeed, under the new standards, even the most minor juvenile offenders could be placed in adult facilities—incredibly dangerous places for young people—for unlimited periods of time. We strongly disagree with all of these changes. We strongly disagree.

The key component of the 1974 Act—the requirement that States maintain strict separation between juvenile and adult offenders—remains a hallmark of our criminal justice system. We are not aware of any criminal justice professionals who believe that increasing the exposure of juvenile offenders to adults will improve the life prospects of the juvenile offenders. Quite the contrary, permitting contact between juvenile and adult offenders and placing juveniles in adult jails will greatly increase the likelihood that juvenile offenders—the great majority of whom are nonviolent—will commit additional crimes once they leave custody. John DiIulio, a criminologist frequently cited approvingly by supporters of S. 10, is correct that "jailing youths with adult felons under Spartan conditions will merely produce more street gladiators."[22] Moreover, the contact the bill permits between juveniles and adults will lead to an increased number of tragedies inside our jails and prisons—rapes, assaults, and suicides of young people, some of whom will be very minor offenders.

Since the Committee bill erases laws that have served an important purpose in our criminal justice system for almost a quarter century, we believe it is necessary to review the original purpose of the Act and explain how minor adjustments to current law could provide localities the additional flexibility they need without tearing down these essential core protections for juvenile offenders that continue to be needed.

A. THE "CORE PROTECTIONS" OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 HAVE WORKED

Twenty-five years ago, this Committee began a comprehensive set of landmark hearings revealing a wealth of evidence that juvenile delinquents were being detained in horrific conditions where they often had contact with adult offenders.[23] This contact often led to tragedy—assaults, rapes, and suicides of young people. This Committee received reams of examples too numerous to recount here of children, charged with the most minor of offenses, being placed in adult jails—essentially rooms with bars—with no professional supervision, no mental health services, and no educational programs. The result: the 15-year-old who hung himself in Michigan, the 18-year-old in Virginia who committed suicide by setting fire to his mattress while locked in an isolation cell, the 17-year-old who was gang-raped by four cell mates in the central lockup of Orleans Parish, Louisiana, and the list goes on.[24] A shocking report on practices in Philadelphia estimated that 2,000 sexual assaults occurred inside adult jails or "sheriff's vans" used to transport juvenile and adults to court over a 26-month period. One juvenile was raped five times while inside such a van.[25]

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[22] John J. DiIulio, Jr., "Stop Crime Where It Starts," New York Times, July 31, 1997, p. A-15.

The policy of separating juveniles and adults also represents good criminal justice policy. Senator Bayh, author of the 1974 Act, said it well:

> Tossed in jail with hardened criminals, a runaway may learn how to steal a car or a truant may be taught how to shut off a burglar alarm. Innocent teenagers emerge from jail street-wise. Even a brief stay in jail, rather than deterring crime, may just make a juvenile more sophisticated and less likely to be caught at his next offense.[26]

Through Senator Bayh's efforts, the Committee also uncovered substantial evidence that thousands of young people were languishing in jail for relatively minor, noncriminal offenses such as truancy or running away from home ("known as status offenses"), instead of being provided the services necessary to relieve the causes of the inappropriate conduct, oftentimes child abuse or neglect.

Based on this record, Congress enacted the Juvenile Justice and Delinquency Prevention Act of 1974. Among other things, the Act created a formula grant program for States to improve their juvenile justice systems. To qualify for the grants, States were required to assure that juveniles would be separated from adults in all stages of custody and that status offenders and "non-offenders" such as alien juveniles in custody or abused and neglected children would not be incarcerated. Grants were initially dedicated toward improving State facilities to achieve compliance with the two core protections. As States came into compliance, grants could be used for other system improvements—such as the development of alternative sanctions, construction of community based facilities, aftercare services for offenders, and crime prevention programming.

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[23] "Investigation of Juvenile Delinquency in the United States," hearing before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary, 92d Cong., 2d sess., and 93rd Cong., 1st sess. (May 15 and 16, June 27 and 28, 1972, and Mar. 26 and 27, June 26 and 27, 1973); "Investigation of Juvenile Delinquency in the United States," hearing before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary, 93rd Cong., 1st sess. (Sept. 10, 11, and 17, 1973).

[24] "Investigation of Juvenile Delinquency in the United States," hearing before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary, 93rd Cong., 1st sess., p. 4 (1973).

[25] Id.

[26] Id.

The Act was reauthorized in 1977, 1980, 1984, 1988, and 1992.

In 1980, Congress responded to studies indicating that despite the separation requirements of the original Act, almost half a million juveniles were continuing to be housed in adult jails and lockups each year—sometimes in solitary confinement cells or windowless rooms to achieve separation.[27] These studies indicated that the suicide rate of juveniles held in adult jails was almost eight times the rate of juveniles placed in secure juvenile detention facilities.[28] Half of the total number of children that killed themselves while in adult jails and lockups during the year of the study were merely status offenders. In response to these findings, the Act was amended to add a new requirement that States remove juveniles from adult jails.

In addition, during the 1980 reauthorization, Congress created an exception to the prohibition on incarcerating status offenders, by permitting States to place juveniles that had violated a "valid court" order in a secure detention or correctional facility. This exception enabled juvenile court judges to punish chronic status offenders that had been formally ordered to discontinue their inappropriate conduct.

During the 1988 reauthorization, Congress added a new requirement that States participating in the grant program study whether minority youth were being incarcerated at a disproportionate rate and, if so, to address prevention efforts toward reducing minority confinement.

Over time, the statute has been modified, and various administrative requirements have been added to the formula grant program. Yet, the four "core requirements" of the Act remain:

> (1) Separation of juvenile offenders from adults in custody and from the part-time or full-time security and direct-care staff of adult prisons (known as "sight and sound" separation);
>
> (2) Removal of juveniles from adult jails or lockups, with a 24-hour exception in rural areas and other exceptions for travel and weather related conditions;
>
> (3) Deinstitutionalization of status offenders;
>
> (4) Reduction of disproportionate minority confinement.

It is important to note that these requirements apply only to juvenile delinquents. Juveniles tried as adults are not covered by the Act and may be placed in adult facilities to the extent permitted by State law.

By any objective measure, the Act has been enormously successful. When it was first implemented, States reported that 85,000 juveniles were detained each year without adequate separation from adult offenders. By 1995, this number had been reduced to 1,800.[29] When States entered the formula grant program, 171,872 status offenders were being held in secure detention annually. Due to intervention programs established through the Act, only 3,696 juveniles were institutionalized in 1995.[30] Initial jail and lockup data revealed 159,516 instances of juveniles being detained in adult facilities. That figure has been reduced to 10,035 in 1995, with the two States that are no longer participating in the program accounting for over 7,000 of those violations.[31]

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[27] Michael Flaherty, "An Assessment of the National Incidence of Juvenile Suicide in Adult Jails, Lockups, and Juvenile Detention Centers," U.S. Department of Justice, pp. 5, 9 (1980).

[28] Id., p. 10. The suicide rate of children in adult jails during 1978 was 12.3 per 100,000 population, whereas the rate for children in juvenile detention facilities was 1.6 per 100,000 (lower than the 2.7 rate for juveniles in the general population).

[29] "Fixing A Broken System: A Review of the OJJDP Mandates," hearing before the Subcommittee on Youth Violence of the Senate Committee on the Judiciary, 105th Cong., 1st sess. (1997) (testimony of Shay Bilchick).

Significant data has also been collected concerning minority confinement. While African-American juveniles comprise approximately 15 percent of the United States juvenile population, they represent 28 percent of the juveniles arrested, 33 percent of the juveniles referred to juvenile court, 44 percent of the juveniles detained, 41 percent of the juveniles sentenced to incarceration, and 57 percent of the juveniles transferred to adult court.[32] Forty-three percent of the juveniles in secure public detention facilities are African-American, 32 percent are white, and 21 percent are Hispanic.[33] African-American youth are twice as likely to be arrested as whites and seven times as likely to be detained in a public detention facility.[34]

B. RECENT REFORM EFFORTS DEMONSTRATE THAT THE CORE PROTECTIONS CAN BE MAINTAINED WHILE PROVIDING NEEDED FLEXIBILITY TO STATES AND LOCALITIES

(1) Senate Judiciary Committee Action

Following a series of hearings in 1996 by the Subcommittee on Youth Violence, Senators Thompson and Biden introduced a bipartisan bill to reauthorize the Act for an additional 4 years. The bill—S. 1952—was reported by the Committee on September 16, 1996, a fact that the majority apparently would like to forget, since it does not even mention the bill it reported just over a year ago.[35]

In its report, the Committee concluded that the four core requirements should be maintained, but that each requirement should be modified to provide localities, especially in rural areas, added flexibility.

The Committee explicitly concurred with the testimony of William Woodward, Director of the Colorado Criminal Justice Department, that having adults in close proximity to juveniles "can increase the risk of violence to juveniles, the risk of suicide, and potential liability to law enforcement officials, as well as exposing juveniles to a dangerously influential criminal element."[36] Yet, the Committee also found that overly strict interpretation of the "sight and sound" requirement had interfered with efficient operation of correctional facilities by prohibiting even brief, incidental sight contact between adults and juveniles and precluding adult and juvenile facilities located at the same site ("co-located facilities") from sharing staff and recreational areas.[37] Accordingly, the bill modified the separation standard to prohibit only "regular contact" between juveniles and adults and eliminated the prohibition on using shared staff.[38]

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[30] Id.

[31] Id.

[32] National Council on Crime and Delinquency, "National Estimates of Juvenile Arrests, Detentions, Adjudicated Confinement, Adult Court Transfers and One Day Court Public and Private Custody by Race 1995" (1996).

[33] Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: 1997 Update on Violence," p. 42.

[34] In 1995, 768,600 African-American youth were arrested, for a rate of 17,120 per 100,000; 1,849,050 white youth were arrested, for a rate of 7,820 per 100,000 (a ratio of 2.19:1). Id., p. 17. A single-day count of the juvenile population in public facilities showed that 29,702 African-Americans were incarcerated, for a rate of 661 per 100,000, while 21,858 whites were incarcerated, for a rate of 92 per 100,000 (a ratio of 7.15:1). Office of Juvenile Justice and Delinquency Prevention, "Public Facility Characteristics by Self Classification" (Jan. 29, 1997).

[35] Fourteen of the Committee's current eighteen members served during the 104th Congress.

[36] S. Rept. 369, 104th Cong., 2d sess., p. 15 (1996).

The Committee also determined that the restriction on placing juveniles in adult jails should be retained, but modified to provide greater flexibility. Local law enforcement officials complained that the blanket prohibition on placing juveniles in adult jails required them to transport juveniles long distances for placement in a juvenile facility and then required additional travel for court appearances. They also maintained that barring the use of adult jails for even short-term detention of juveniles limited the ability of the juvenile courts to develop a program of graduated sanctions due to a shortage of juvenile bed-space, especially in rural areas.[39] The Committee found that permitting detention of juveniles for 72 hours in nonmetropolitan areas (if there were no easily accessible alternatives) would alleviate these problems and eliminate any disincentives the jail removal requirement may have created for arresting juveniles.[40]

The Committee also expressed concern that the inflexible prohibition on incarcerating status offenders limited the juvenile court's ability to impose meaningful sanctions on status offenders and deal effectively with runaway youth.[41] To provide States with needed flexibility, "while preserving the rights of these offenders," the bill granted juvenile courts authority to detain a runaway, truant, or incorrigible youth for up to 72 hours if the youth had been previously warned that his or her conduct would lead to such a sanction or the chronic behavior of the youth presented a danger to his or her physical or emotional well-being.[42]

Finally, the Committee clarified to the directive to study and address disproportionate minority confinement. The new standard confirmed that States were only required to "address prevention efforts" toward reducing the number of minorities in secure detention and that the law created no requirement to impose racial quotas on arresting or incarcerating minority youth.[43]

(2) OJJDP Regulatory Action

Most of the Committee's proposed modifications to the core requirements were included in a comprehensive revision of the Justice Department's implementing regulations, which were finalized on December 10, 1996.[44] These modifications were undertaken to "assist jurisdictions that are working diligently to comply with statutory and regulatory obligations" and "recogniz[e] certain real-world factors which can make 'perfect' compliance unrealistic."[45] The revisions:

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[37] Id.

[38] Id., p. 25. The term "regular contact" was defined to permit incidental contact between juveniles and adults in common areas if reasonable efforts were made to segregate them.

[39] Id., pp. 14–15.

[40] Id., pp. 15, 26.

[41] Id. pp. 13–14.

[42] Id., p. 25.

[43] Id., p. 26.

[44] 61 Fed. Reg. 65,132 (1996) (to be codified at 28 C.F.R. 31).

- Modified the "sight and sound" requirement by:
  - permitting "brief and incidental or accidental" sight or sound contact between juveniles and adults in non-residential areas;
  - allowing adjudicated delinquents to be placed in adult facilities upon reaching the age of majority;
- Modified the "jail removal" requirement by:
  - permitting juveniles to be held in adult jails or lockups for 6 hours before or after a court appearance;
  - permitting nonresidential spaces of collocated adult and juvenile facilities to be shared;
- Modified the "deinstitutionalization of status offenders" requirement by permitting status offenders to be held in a secure juvenile detention facility for 24 hours prior to and following an initial court appearance.
- Clarified that the compliance with the "disproportionate minority confinement" did not require use of numerical standards or quotas.

All of these regulatory modifications were incorporated into the administration's Anti-Gang and Youth Violence Act of 1997, introduced by Senators Leahy and Biden as S. 362. In addition, like the bipartisan bill approved by the Committee in 1996, S. 362 eliminated the prohibition on using shared staff in co-located facilities and extended the jail removal exception to permit longer detention in adult jails for juveniles in rural areas—two improvements that could not be made by regulation, but instead required new statutory language.

C. S. 10 UNWISELY WEAKENS THE "CORE PROTECTIONS" THAT MAINTAIN SEPARATION BETWEEN JUVENILE AND ADULT OFFENDERS, KEEP JUVENILES OUT OF ADULT JAILS, AND DIRECT PREVENTION EFFORTS TOWARD REDUCING MINORITY CONFINEMENT

Despite the Committee's unanimous endorsement of revisions to the core requirements in September 1996, and the significant administrative reforms taken by OJJDP in December 1996, on the first day of the 105th Congress, Senator Hatch introduced S. 10, which proposed to weaken the requirement to separate juveniles and adults in custody and totally repeal the three other core requirements. In contrast, H.R. 1818—the bipartisan reauthorization bill which the House passed by a 413–14 vote on July 15, 1997—retains all four core requirements.

(1) Separation of Juveniles and Adults

The only "core" protection S. 10 provided for juveniles in custody was to prohibit "regular, sustained physical contact" between juvenile and adult inmates, a substantial weakening of the current "sight and sound" separation standard.

Combined with the elimination of the status offender and jail removal requirement, this standard would have allowed the most minor offenders—such as truants, curfew violators, or children who illegally purchased cigarettes or alcohol—to be placed in adult jails, for indefinite time periods and have physical contact with adult prisoners so long as that contact was not both "regular" and "sustained." As Mark Soler, president of the Youth Law Center, testified, this standard "may not even stop a pattern of placement of children in the same cellblock as adult inmates, if they are put in different cells."[46] Indeed, this standard would not have even prohibited actual physical contact between juveniles and adults—for example, in recreation or visiting areas—so long as it did not occur regularly and the contact was not for a prolonged duration.[47] Sound contact between adults and minor juvenile offenders would also have been permitted.

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[45] Id.

The chairman's mark wisely rejected the inadequate "regular, sustained physical contact" standard, but even so the bill would still permit both physical and sound contact between juvenile and adult offenders.

The majority's contention that its new standard "strictly prohibits physical contact between juveniles and adults" is unfortunately incorrect. Instead, the bill only protects against physical contact "that provides an opportunity for an inmate to harm a juvenile" and explicitly permits "indirect, intermittent, or incidental contact."[48] This tortured terminology would appear to permit juveniles and adults to be in common areas together so long as a guard is present to prevent physical abuse. Indeed, the majority admits as much, stating that "occasional violations in booking areas * * * are not necessarily harmful to juveniles." The new standard would also permit juveniles and adults to be placed in adjacent cells where an adult could touch, but not harm, a juvenile. The exemption for "intermittent" contact is also exceptional. It would allow an adult to touch a juvenile every day, so long as the touching occurs only for a short period of time. Apparently, the majority would like to have it both ways—claiming that they are protecting juveniles in custody, while at the same time leaving gaping holes in law. If the majority truly wished to prohibit all physical contact between juveniles and adults, it would adopt the standard in the bill for juveniles detained in the Federal system, which prohibits "any physical contact between juvenile and adult inmates in custody."

The Committee bill also greatly weakens current protections by only outlawing "sustained oral communication." Under this standard, complete sound contact between adults and juveniles is permitted for 72 hours, which would allow juveniles to be taunted, harassed, and threatened by aggressive adult offenders for 3 days. After 3 days, juveniles and adults may still be in sound communication, so long as "oral threats" that can be "easily heard" are not permitted. This level of contact would allow for juveniles and adults to be placed in adjacent cells, where they could have unlimited conversations about crime and other deviant behavior and would do nothing to prohibit adults from encouraging juveniles to commit suicide. Both the physical and sound separation requirements of S. 10 are wholly inadequate.

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[46] "Fixing A Broken System: A Review of the OJJDP Mandates," hearing before the Subcommittee on Youth Violence of the Senate Committee on the Judiciary, 105th Cong., 1st sess. (1997) (testimony of Mark Soler).

[47] Id.

[48] S. 10, section 301 (defining "prohibited physical contact" in section 103(11) of amended JJDPA).

Maintaining complete separation between juveniles and adult offenders is imperative. Unfortunately, we know from experience what happens when adults are permitted any contact with juveniles—violence. Just over a year ago, six adult inmates gained entry to the juvenile cellblock of an Ohio prison. The result: Damico Watkins, age 17, was stabbed to death after receiving 79 knife wounds, 27 to the head.[49]

We cannot comprehend why the majority is insistent on rolling back a law that has worked for almost a quarter century and virtually eliminated contact between juvenile and adult inmates in the United States.[50] Separating juveniles and adults—a well-established norm of international law[51]—should be a noncontroversial, accepted principle of our criminal justice system. We are not aware of any criminal justice groups or professional organizations advocating a reversion to the 1970's practice of permitting contact between juvenile and adult offenders. To be sure, sheriffs and other local officials have called for modifications in the current "sight and sound" requirement to permit use of shared staff and allow for some "incidental" contact between juveniles and adults. But that problem can be easily remedied (as it was in last year's S. 1952) without gutting the entire separation standard.

Indeed, the Committee has tacitly acknowledged that complete physical and sound separation of juveniles and adults is the appropriate policy by unanimously endorsing Senator Biden's amendment concerning separation of juveniles and adults in the Federal criminal system. The Biden amendment revised the bill's separation standard for Federal juvenile detainees by providing that there should be:

(1) no physical contact between juveniles and adults in custody;

(2) no physical proximity between juveniles and adults that could provide an opportunity for physical contact; and

(3) no speech between juveniles and adults.

Exceptions were included to permit guards to accompany juveniles through a facility even though there may be "incidental" contact with adult offenders and to allow detention of juveniles in cells where they may be able to hear unintelligible noises from adult offenders. The Justice Department stated that the Biden amendment was consistent with its current practices and compliance with it would impose no additional costs on the Federal Government.[52]

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[49] Kristen Delguzzi, "Prison Security Went Awry; Youth Killed When Adults Entered Cellblock," Cincinnati Enquirer, Apr. 30, 1996, p. B1.

[50] The number of violations of the sight and sound requirement has been reduced by almost 99 percent since data began kept. Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, "1995 Compliance Monitoring Summary," p. 9 (1997). Fifty-five of the fifty-seven States and other jurisdictions covered by the Act are in compliance with current requirements. Id., p. 3.

[51] The International Covenant on Civil and Political Rights—ratified by the Senate on Apr. 2, 1992—explicitly provides that "[j]uvenile offenders shall be segregated from adults." International Covenant on Civil and Political Rights, Art. 10(3), opened for signature Dec. 16, 1966, S. Exec. Doc. E, 95–2 (1977), 999 U.N.T.S. 171. The Convention on the Rights of the Child, signed by the United States and ratified by 169 other countries, requires that "every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so." Convention on the Rights of the Child, Art. 37(c), opened for signature Jan. 26, 1990, 28 I.L.M. 1448 (entered into force Sept. 2, 1990). Two unanimously endorsed United Nations resolutions also require complete separation of juvenile and adult offenders. United Nations Standard Minimum Rules for the Administration of Juvenile Justice, G.A. Res 33, U.N. GAOR, 40th sess., 96th plen. mtg., Annex, pt. 1, rule 13.4, U.N. Doc. A/Res/40/33 (1985) (requiring detention of juveniles "in a separate institution or in a separate part of an institution also holding adults"); United Nations Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res 113, U.N. GAOR, 45th sess., 68th plen. mtg., Annex, 29, U.N. Doc. A/Res/45/113 (1990) (providing that "in all detention facilities, juveniles should be separated from adults, unless they are members of the same family").

Since the Committee must believe it is bad policy to give hardened adult criminals the opportunity to influence and corrupt juvenile delinquents (otherwise it would not have approved the Biden amendment for Federal juvenile detainees), the Committee should have extended the same protections to the thousands of juveniles in State custody. This mistake ought to be corrected when S. 10 is considered by the full Senate.

(2) Jail Removal

S. 10 as reported by the Committee would repeal the "jail removal" requirement added to the Act in 1980, thereby permitting participating States to house juveniles in adult jails and lockups indefinitely.

Repeal of this "core protection" would represent a substantial step backwards in our efforts to improve the safety of the criminal justice system for children. Unfortunately, we know from experience what happens when juveniles are placed in adult jails—suicides, rapes, and violence. At best, we can expect that juveniles who spend time in adult jails and lockups to be more dangerous, more likely to commit additional crimes, and less able to return to the community when they leave the adult facility than when they went in.

Even if juveniles are separated from adults, adult jails and lockups are no place for children. The reasons are readily apparent. Adult jails have no educational programs for juveniles, no health and mental health screening geared to juveniles, no ability to separate violent from nonviolent juveniles, and no recreational or exercise programs for juveniles. For the most part, juveniles held in adult jails spend all day sitting in their cells. The jailers have no training in the special needs of children. Detention under these circumstances will not "reform" juvenile offenders; it will only make them worse. Research bears this out. Studies over the past 15 years have all come to the same conclusion that juveniles in the adult system have a significantly worse recidivism rates than those tried for the same offense in juvenile courts.[53] And we ought to keep in mind that the vast majority of juvenile delinquents taken into custody will be back on the streets after a short period of time.

It also cannot be ignored that adult jails are breeding grounds for juvenile suicides. As a landmark Justice Department study in 1980 showed, juveniles are almost eight times more likely to commit suicide in adult jails than juvenile detention facilities.[54] A witness testifying before the Youth Violence Subcommittee aptly described why this is so:

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[52] Letter from Andrew Fois, Assistant Attorney General, to Senator Joseph Biden (July 27, 1997).

G553 National Coalition of State Juvenile Justice Advisory Groups, "Myths and Realities: Meeting the Challenge of Serious, Violent, and Chronic Juvenile Offenders" 27 (1993) (citing studies by Snyder & Hutzler, 1981; White, 1985, and Fagan, 1991); Donna M. Bishop, Charles E. Frazier, et al., "The Transfer of Juveniles to Criminal Court: Does It Make a Difference?", 42 Crime & Delinquency 171 (1996).

[54] Michael Flaherty, "An Assessment of the National Incidence of Juvenile Suicide in Adult Jails, Lockups, and Juvenile Detention Centers," U.S. Department of Justice, pp. 5, 9 (1980).

> Children who get arrested often feel like their world is ending—they are humiliated, their parents are angry. If they have been using alcohol or drugs, these feelings are exacerbated. If they are put in a room at the end of a hallway, as they often are * * * then depression and isolation feed on each other, they feel like life is no longer worth living, and they seek to end it.[55]

Putting aside the risk of suicide, adult jails are dangerous for juveniles. A 1990 study demonstrated that juveniles in adult institutions are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, and 50 percent more likely to be attacked with a weapon than young people in juvenile facilities.[56] Unfortunately, we know this is true from the experience in Kentucky, one of the two States that has chosen to decline Federal funds rather than comply with the jail removal requirement. Over a 13-year period, there were four suicides, one attempted suicide, one accidental death, three sexual assaults, and two other assaults involving juveniles in Kentucky's adult jails.[57] Nine of these incidents involved status offenders—truants, runaways, and incorrigible youth—placed in jail even though they would not have been considered criminals if they were adults.[58]

Behind these and other avoidable tragedies are names and faces of children and families:

> Robbie Horn, age 15, was repeatedly ordered into adult jail for truancy and running away from home. On one occasion, he was paraded through the jail in front of adult inmates who called out to him for sex. After getting into an argument with his mother, a juvenile court judge ordered him back to the jail. Although he was visibly upset, he was left unsupervised in his cell. Within half an hour, he had hung himself.[59]
>
> Kathy Robbins, age 15, was arrested and placed in an adult jail for being out in the town square after 10 on a Saturday night. She was kept in jail for a week, in a room isolated from everyone else in the jail. She hung herself.[60]
>
> Christopher Peterman, age 17, was placed in jail for failing to pay $73 in traffic fines. Over a 14-hour period he was tortured and finally murdered by other prisoners in his cell. Staff

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[55] "Fixing A Broken System: A Review of the OJJDP Mandates," hearing before the Subcommittee on Youth Violence of the Senate Committee on the Judiciary, 105th Cong., 1st sess. (1997) (testimony of Mark Soler).

[56] Forst, Fagan, and Vivona, "Youth In Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy", 1989 Juvenile and Family Court Journal, p. 9.

[57] Kentucky Youth Advocates, "Violent Incidents Against Juveniles in Kentucky Adult Jails" (1974–1992).

[58] Id.

[59] "Inquiry into the Continued Detention of Juveniles in Adult Jails and Lock-ups," hearing before the Subcommittee on Juvenile Justice of the Senate Committee on the Judiciary, 98th Cong., 1st sess., pp. 255–57 (Feb. 24, 1973) (statement of Rita Horn, Greg Horn); Press Release, statement of Rita Horn, June 2, 1997.

[60] Hurst, "Governor OKs Limits on Juveniles in Adult Jails," Los Angeles Times, Sept. 30, 1986, at 1; "Fixing A Broken System: A Review of the OJJDP Mandates," hearing before the Subcommittee on Youth Violence of the Senate Committee on the Judiciary, 105th Cong., 1st sess. (1997) (testimony of Mark Soler).

> in the adult jail did not monitor the juvenile cell regularly and were unaware of these assaults.[61]
>
> Deborah Doe, age 15, ran away from home and returned voluntarily, but was placed in an adult jail in Ohio by a judge "to teach her a lesson." After 4 nights in confinement, she was sexually assaulted by a deputy county jailer. Five hundred status offenders had been placed in the adult jail over the previous 3 years.[62]
>
> Jane Doe, age 17, was detained within sight and sound contact of adults for stealing a bottle of shampoo. She had a history of mental health problems but the jail staff did not pick that up. She hung herself.[63]

As more juveniles are tried as adults and restrictions are lifted on placing juveniles in adult jails, both of which are encouraged by S. 10, this list of tragedies will continue to grow.

Instead of repealing the jail removal requirement, we believe current law should be modified to provide greater flexibility. A case has been made that totally prohibiting the placement of juveniles in adult jails may interfere with law enforcement efforts in rural communities where there are no dedicated juvenile facilities nearby. We do not believe that a police officer should ever feel restrained from arresting a violent juvenile because there is no place to put the offender. In circumstances where no juvenile facility is readily available, law enforcement authorities ought to be able to place juveniles in adult jails for up to 72 hours, so long as the juvenile is provided physical and sound separation from adult offenders during that period. Three days ought to be sufficient time for the juvenile to attend an arraignment or other court proceeding and be appropriately placed in a juvenile facility.

Claiming that a 72-hour time limit would lead to the release of juvenile offenders who should be incarcerated is simply not a valid argument. First of all, there is absolutely no empirical evidence that violent juveniles are being immediately released due to the jail removal requirement and we doubt that they are, since even under current Federal law, juveniles may be detained in an adult facility for up to 48 hours in many rural areas (where most of the complaints about the jail removal requirement originate). If offenders are being released, however, we should be focusing our attention on why States are failing to fulfill their responsibility to provide detention space for juvenile offenders, a purpose for which they have received millions of dollars, under the Act and other Federal assistance programs.[64] Indeed, S. 10 authorizes additional funding for this purpose—at least $175 million each year. States that have neglected this responsibility over the past decades should not now point to the requirement to keep juveniles out of adult jails, which represents universally accepted corrections policy, as the cause of their systematic difficulties. Placing juveniles in adult jails is a short-term solution that will exacerbate the long-term problem, because juveniles who spend substantial time in adult facilities will be more likely to commit additional crimes and require future detention. We cannot condone a "solution" that will simply make our crime problem worse.

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[61] "Fixing A Broken System: A Review of the OJJDP Mandates," hearing before the Subcommittee on Youth Violence of the Senate Committee on the Judiciary, 105th Cong., 1st sess. (1997) (testimony of Mark Soler).

[62] Id.

[63] Id.

[64] Complaints are often heard of the shortage of juvenile detention space, but remarkably, only a handful of States have used any portion of their prison grant funding under the 1994 Crime Law for juvenile facilities, even though they have the option to do so. Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, section 20105(c), 108 Stat. 1796.

There are better ways to deal with this problem. After a horrific incident where a child died in an Indiana jail, Governor Evan Bayh issued an executive order prohibiting the placement of juveniles in adult jails.[65] Since then, Indiana has taken advantage of the technical assistance available from OJJDP and has made constructive changes that have brought Indiana into compliance with the jail removal requirement.[66] We should be encouraging States to follow this course of action instead of giving them the green light to adopt terrible corrections practices that we know will cause more harm than good.

(3) Deinstitutionalization of Status Offenders

The Act has prohibited the incarceration of status offenders based on the premise that putting truants and runaways in jail will do nothing to solve the problems that led to their inappropriate conduct, which is oftentimes symptomatic of severe problems at home, including child abuse and neglect. Over the past two decades, States and localities have been creating alternative facilities for dealing with status offenders (such as runaway shelters) which provide more effective treatment for the juveniles and save scarce prison resources for violent and serious offenders.

We are aware of no evidence that these principles do not hold true today. Placing very minor offenders in jail—where they may have contact with adult prisoners—will aggravate, not solve the problems that lead them to cut classes or run away from home. Prison space ought to be used for juveniles that have engaged in criminal conduct and must be both punished and segregated from the community, not children that present no public safety threat and can still be saved through proper intervention.

Although the chairman's mark represented an improvement over S. 10's total repeal of current law, it still would have reversed two decades of progress in keeping status offenders out of jails. Under the chairman's mark, States would have been permitted to incarcerate status offenders (even in an adult jail) for at least 10 days and, if the offender had received an official court warning or his or her conduct represented a danger to public safety, to incarcerate them indefinitely. The chairman's mark provided no protections for abused and neglected children or alien juveniles in custody.

The Biden-Grassley amendment adopted by unanimous consent represented a substantial improvement over this standard. First, the amendment restores the prohibition on incarcerating abused and neglected children and alien juveniles. Second, the amendment requires that status offenders be removed from adult jails and receive a hearing before a juvenile judge within 24 hours after being taken into custody. Third, a status offender may only be held in secure detention following a hearing if a juvenile judge issues explicit written findings explaining why the incarceration is necessary and other types of sanctions, interventions or placements would be inadequate. With respect to runaways, offenders may be held for up to 2 weeks if their conduct constitutes a "clear and present danger" to their safety, secure detention is necessary to protect the offender, and secure detention is used only until a suitable alternative placement is available. Other status offenders may only be held for a maximum of 3 days.

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[65] "Fixing A Broken System: A Review of the OJJDP Mandates," hearing before the Subcommittee on Youth Violence of the Senate Committee on the Judiciary, 105th Cong., 1st sess. (1997) (testimony of Mark Soler).

[66] Indiana led the Nation in incidents of contact between juvenile and adult offenders when it entered the formula grant program, but had no violations of the "sight and sound" separation requirement in 1995. Similarly, it has reduced the number of juveniles housed in adult jails from 12,608 (second in the Nation) to 52 in 1995. Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, "1995 Compliance Monitoring Summary" (1997).

Although this amendment does not cure all the defects of S. 10, it upholds the principle that incarceration is not the preferred means for dealing with status offenders and should be employed as infrequently as possible. Runaways are permitted to be detained for an extended period only when no alternative placements are available and the court needs time to evaluate the child. This amendment does not endorse the use of "shock incarceration" for status offenders. In all cases, the juvenile judge must explain why alternative sanctions and interventions will not be effective in deterring and curbing the inappropriate conduct of the juvenile. While we are not convinced that current law needs to be revised to the extent of the Biden-Grassley amendment, it is a marked improvement over S. 10.

(4) Disproportionate Minority Confinement

We also disagree with the Committee's decision to eliminate the requirement to study and direct prevention efforts toward reducing the disproportionate number of minority youth in the juvenile justice system.

The results of studies conducted in response to the 1992 amendments to the Act have demonstrated a very clear and disturbing pattern of minority youth entering the juvenile justice system at a rate far greater than their proportion of the population. Although African-American youth represent only 15 percent of the juvenile population, they represent 27 percent of the juveniles arrested and 43 percent of the juveniles incarcerated in public facilities.[67] The bottom line—an African-American youth is twice as likely to be arrested and seven times as likely to be placed in jail than a white youth.[68] Indeed, 46 of the 55 States and territories that have completed studies required by the Act have identified a problem with disproportionate minority confinement.[69]

In light of this substantial evidence, plain common sense dictates that prevention efforts should be targeted at reducing the number of minority youth that come into contact with the juvenile justice system. We believe that such efforts should continue to be made to address what, in essence, amounts to a crisis in many of our minority communities across the country. Therefore, we support the inclusion of a requirement—identical to the language in H.R. 1818, which passed the House of Representatives by an overwhelming margin—that States target their juvenile delinquency prevention efforts toward reducing the disproportionate number of minority youth who come into contact with the juvenile justice system.

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[67] Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: 1997 Update on Violence," pp. 17, 42.

[68] See supra, note 34.

[69] Office of Juvenile Justice and Delinquency Prevention, "1995 Compliance Monitoring Summary," p. 9 (1997).

This requirement would explicitly preclude the use of numerical quotas for arrests or the release of any juvenile from custody based on race. Indeed, we strongly disagree with the majority's suggestion that the Act presently calls for racial quotas on arrests or number of inmates. The point of the minority confinement requirement is not to brand any criminal justice officials as being "racist" or to impose a racial balance within our juvenile justice system. Yet, we do believe it is appropriate to acknowledge a serious problem—which undeniably has a racial component—and encourage States to takes steps to take action. Turning a blind eye to the reality of this problem, as the majority recommends, would be extremely counterproductive.

The majority's so-called "color-blind" proposal to distribute funds to localities based on the juvenile crime rate will do nothing to address the crisis in many of our minority communities. First, there is no binding requirement to distribute funds in this manner, Governors are only instructed to do so "to the extent feasible." More importantly, however, since formula grant funds under S. 10 may be used to implement sanctions programs and other punitive measures, there is no guarantee that any of the funding under the majority proposal will be directed toward reducing the number of minority youth who end up behind bars at a very young age.

Little need be said about the majority's "concerns" over the constitutionality of the minority confinement requirement. We are quite confident that when 46 States and territories have identified a problem with disproportionate minority confinement and the evidence shows that African-American youth are twice as likely to be arrested and seven times as likely to be incarcerated as their white counterparts, our Constitution does not prohibit the use of Federal funds to reduce the number of minority youth that end up in jail.

D. S. 10'S LIMITED RESTORATION OF THE ROLE OF STATE ADVISORY GROUPS DOES NOT GO FAR ENOUGH

S. 10, as originally drafted, abolished the role of State Advisory Groups (SAG's), which have served an essential role in the juvenile justice system for over 20 years. The Committee adopted an amendment by Senator Leahy to ensure that these important advisory groups continue to be consulted regarding State plans for complying with the four core protections and developing plans for addressing juvenile crime and delinquency. As a result, the SAG's, consisting of juvenile justice experts selected by their State Governors, will continue to make recommendations to Governors and State legislatures on juvenile crime and delinquency control measures. Yet, the bill continues to place unwarranted limitations on the role of these important advisory groups.

Since 1974, Congress has recognized the importance of ensuring that these dedicated citizen advisors are able to provide input on the implementation of juvenile justice reforms and delinquency prevention programs on the State and local level. As Senator Murkowski observed in a letter urging support for Senator Leahy's amendment, "SAGs are one of the best and most cost-effective mechanisms to combat juvenile crime." These experts on juvenile crime and prevention have the local knowledge, the experience and the commitment to ensure that Federal grant moneys are well spent. They have also often been successful at helping to combine Federal funds with State or private funding to maximize the impact of this Federal funding.

Senator Leahy's amendment streamlines the existing requirements for SAG's. In particular, based upon the recommendations of the Coalition for Juvenile Justice, a national coalition of SAG's, the amendment adopted by the Committee provides flexibility to the States by requiring only that representatives with experience in broad categories of juvenile justice issues from both the public and private sector are included in the SAG's. The advisory groups must include individuals with experience in juvenile delinquency prevention, the prosecution and treatment of juvenile offenders, the investigation of juvenile crimes and the administration of juvenile justice programs. As amended, S. 10 does not mandate a minimum or maximum number of representatives to the SAGS. But, no advisory group member should represent more than one of the enumerated areas of interest.

Preservation of the SAG's in S. 10 through the adoption of Senator Leahy's amendment improved the majority's bill. Nevertheless, the limitations on their role continues to cause concern. First, under current law, SAG's are afforded the opportunity to review and comment on the award of any formula grant funds to States under the Juvenile Justice and Delinquency Prevention Act. This provision makes sense because it allows this group of experts to provide input on how this money can best be spent. SAG's are well situated to ensure that juvenile prevention and prosecution funding and programs are well coordinated, a key goal of this bill. Second, S. 10 lacks a firm commitment that States provide funding to SAG's to ensure these groups can function effectively. These flaws need to be corrected.

IV. S. 10 Will Not Curb Juvenile Crime Because it Provides Inadequate Support for Afterschool Prevention Programs That Provide Alternatives to Crime for At-Risk Youth

The proponents of S. 10 say the choice is "Law Enforcement versus Prevention." Police officers and prosecutors strongly disagree, and recognize instead that aggressive prevention is essential to effective law enforcement. In a recent survey of 780 police chiefs by Northeastern University, including all chiefs from cities with populations over 100,000, 9 out of 10 police chiefs agreed that "if America does not pay for greater investments in programs to help children and youth now, we will all pay far more later in crime, welfare, and other costs."[70] When asked to rank the long-term effectiveness of a number of a possible crime fighting approaches, police chiefs picked "increasing investment in programs that help all children and youth get a good start" as "most effective" nearly four times as often as "trying more juveniles as adults."[71]

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[70] McDevitt, "Police Chiefs Say More Government Investments In Kids Are Key to Fighting Crime," Fight Crime, Invest in Kids, table 2(A) (July 1996).

Boston has become a national model of effective juvenile crime control, and prevention programs have been a vital component in Boston's success. As noted earlier, not a single juvenile has been killed with a firearm in Boston since July 1995. The juvenile arrest rate for firearms-related assaults declined 60 percent in 1996 alone, and has declined 81 percent from 1993 to 1996. The overall homicide rate in Boston dropped 36 percent in 1996, and has dropped an additional 33 percent so far in 1997.[72]

Innovative enforcement initiatives, aggressive efforts to keep guns out of the hands of juveniles, and strong emphasis on prevention have been the keys to success in Boston. Boston Police Commissioner Paul Evans, the architect of this successful strategy, is perhaps the most enthusiastic advocate for prevention programs in Boston.

Afterschool prevention programs are a particularly vital element of the success story in Boston and elsewhere. Studies show that almost half of violent juvenile crime is committed during after-school hours.[73] A similar percentage of unwanted teen pregnancies are conceived during this same period. A recent study on juvenile crime correctly noted that "when the school bell rings, leaving millions of young people without responsible adult supervision or constructive activities, juvenile crime suddenly triples and prime time for juvenile crime begins."[74] Community afterschool programs provide safe havens for at-risk youth and demonstrate that there are appealing and realistic alternatives to gang membership.

Boys and Girls Clubs are important participants in prevention programs, but many other organizations are also heavily involved. For example, in Boston, churches have sponsored "Adopt a Gang" programs where inner city churches serve as drop-in centers providing safe havens for at-risk youth. Social service agencies, private nonprofit organizations, and the Boston Police Department itself have been involved in a variety of successful prevention initiatives.

Boston has debunked the myth that prevention programs do not work. The contention in the majority report that "we know little more of what is effective today than we knew two decades ago" simply ignores the overwhelming evidence regarding the efficacy of crime prevention initiatives. Research has demonstrated risk factors for delinquency include the lack of positive role models; unavailability of constructive afterschool activities; drug availability and favorable attitudes toward drug use; school failure; and dysfunctional families. Prevention programs that successfully address one or more of these risk factors for children also reduce the likelihood that they will become delinquent. Studies have established the effectiveness of many such programs.

- A study of the Big Brothers/Big Sisters mentoring program showed that mentees were 46 percent less likely to initiate drug use, 27 percent less likely to initiate alcohol use, 33 percent less likely to commit assault, and skipped 50 percent fewer days of school.[75]

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[71] Id., at table 4(A).

[72] 1997 Crime Statistics, Boston Police Department.

[73] Fox and Newman, "Tuning In to the Prime Time for Violent Juvenile Crime and Implications for National Policy," p. 3 (1997).

[74] Id., p. 1.

- A Columbia University study of low income housing developments in which Boys and Girls Clubs had been established showed that drug activity was 22 percent lower, and juvenile arrests were 13 percent lower than in similar developments without a Club.[76]
- Senator Herb Kohl, former Chair of the Juvenile Justice Subcommittee, identified 25 successful prevention programs, including programs involving mentoring, counseling, coordinated citizen and police action, alternative activities for at-risk youth, intervention, early education and day care assistance.[77]
- A recent University of Wisconsin study of 64 afterschool programs found that participating children became better students and developed improved conflict resolution skills; in addition, vandalism decreased at one-third of the schools that participated in the programs.[78]
- The Center for the Study and Prevention of Violence at the University of Colorado has identified 13 prevention programs that have proven effective in combating youth violence and curbing youth drug use, including a number of afterschool programs that provide alternatives to gang activity for scores of at-risk youth.[79]
- A recent RAND study demonstrated that graduation incentive programs would result in a reduction of 250 crimes for every million dollars invested. Arrests for students who participated in the graduation incentive program were 70 percent lower than non-participants. It also found that crime prevention efforts were three times more cost-effective than increased punishment.[80]
- A study of afterschool programs targeted at low income children demonstrated that the participants developed better interpersonal skills, had better grades, watched less television, and spent more time in academic or academic enriching activities.[81]
- Public/Private Ventures concluded that "increasing opportunities youth have to become involved with organizations such as the YMCA is an investment with potential valuable returns for their healthy development."[82]
- Studies of a number of community recreation programs demonstrated that the services are a worthwhile investment that yielded dramatic results; for instance, Cincinnati, Ohio's violence prevention education, social and recreation programs resulted in a 24-percent drop in crime. A similar gang reduction program in Fort

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[75] Tierney, Baldwin-Grossman, and Resch, "Making a Difference: An Impact Study of Big Brothers/Big Sisters," Public/Private Ventures, pp. 33–50 (November 1995).

[76] Schinke, Orlandi, and Cole, "Boys & Girls Clubs in Public Housing Developments: Prevention Services for Youth at Risk," Journal of Community Psychology, OSAP Special Issue (1992).

[77] Senator Herb Kohl, "Promises Made, Promises Broken: The Failure to Fund Prevention Programs That Work," pp. 26–45 (September 1996).

[78] Riley, Steinberg, et al., "Preventing Problem Behavior and Raising Academic Performance In the Nation's Youth: The Impact of 64 School Age Child Care Programs In 15 States Supported By the Cooperative Extension Service Youth-At-Risk Initiative," University of Wisconsin (1994).

[79] Center for the Study and Prevention of Violence, University of Colorado, "What Works, Strategies for the Prevention of Violence, Crime, and Drug Abuse" (1997).

[80] Greenwood, Model, et al., "Diverting Children From a Life of Crime: Measuring Costs and Benefits," Santa Monica: RAND Corporation, 1996.

[81] Posner, and Vandell, "Low-income Children's After-School Care: Are There Beneficial Effects of After-School Programs?" Child Development 65, pp. 440–456 (1994).

[82] Public/Private Ventures, "Study of Nationally Affiliated Voluntary Youth Serving Organizations" (July 31, 1996).

Worth, TX, resulted in a 26-percent reduction in gang-related crime.[83]

- A study of a 32-month afterschool recreation program in a Canadian housing project found that crime dropped 75 percent in the project that participated in the program, while crime jumped 67 percent in the project that did not have the program.[84]

These studies belie the notion that we do not have a proper handle on what prevention programs work. Perpetuating this myth provides a convenient excuse for the refusal to fund prevention programs in an adequate fashion. We must continue to evaluate carefully the effectiveness of prevention programs to ensure that Federal dollars are spent wisely. Indeed, we applaud the majority's efforts to provide $50 million to the National Institute for Juvenile Justice and Delinquency Prevention. Even though continued research is necessary, we should stop pretending that we do not know which prevention programs work, and we should stop using this myth as an excuse to underfund prevention programs.

Regrettably, the bill reported by the Committee neither acknowledges that many prevention programs have been proven effective nor heeds the sound advice of Commissioner Evans and other police chiefs and prosecutors across the Nation who emphasize the importance of prevention. This bill pays lip service to prevention, but continues the disturbing trend of underfunding prevention. For example, the 1994 Crime Law authorized almost $7 billion for crime prevention, more than 20 percent of its $30 billion in total spending over 5 years. However, while $11 billion has been spent during the first 3 years under the Crime Law, only an estimated $688 million has gone to prevention—just one-fourth of the amount authorized for prevention for that time period and merely 6 percent of total spending under the Crime Law.[85]

This bill continues this trend of short-changing prevention. As introduced, S. 10 adopted a scorched earth approach to prevention, and sought to drastically undermine the Federal Government's already inadequate commitment to prevention. It sought to eliminate a number of important prevention programs, many of which had bipartisan support and which together received over $680 million in 1997 alone.[86] The Committee eventually agreed to restore these programs, but only after receiving considerable pressure from police, prosecutors, children's advocates and other supporters.[87]

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[83] National Recreation and Park Association, "Beyond Fun and Games: Emerging Roles of Public Recreation," pp. 15, 31 (October 1994).

[84] Jones, and Offord, "Reduction of Anti-social Behavior in Poor Children by Nonschool Skill-Development," Journal of Child Psychology and Psychiatry and Allied Disciplines 30, pp. 737–750 (1989).

[85] Boston Globe, "Congress Quick To Approve, Slow to Spend, Crime Fighting Money," July 28, 1997.

[86] These programs include the Drug Free Schools program (under the Elementary and Secondary School Act), anti-drug abuse and drug treatment programs for gangs, runaways and homeless youth (the Anti-Drug Abuse Act), a juvenile mentoring program (JUMP from the Juvenile Justice Act), gang resistance and education programs (the Gang Resistance Education and Training program from the 1994 Crime Act, and anti-gang programs in the Juvenile Justice Act), an afterschool activities program using school facilities (Community Schools from the 1994 Crime Act), a matching grant program for communities to develop and implement their own long-range anti-delinquency plans (title V of the Juvenile Justice Act), and a community recreational program (Community Services Block Grants Act).

[87] For example, title V had bipartisan support in the Senate's fiscal year 1998 Commerce, Justice and State Appropriations bill. Continued support for title V in this legislation parallels the

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Unfortunately, other prevention programs did not fare as well, and remain on the chopping block. S. 10 still repeals a number of prevention programs that were authorized under the 1994 crime bill. These programs include the Model Intensive Crime Program, a comprehensive prevention initiative targeting at-risk youth from high-crime areas. The bill abolishes the Ounce of Prevention Council, a lean, efficient office whose primary responsibility is to coordinate prevention programs administered by various government agencies, thereby ensuring that scarce Federal prevention dollars are spent effectively. Abolishing the Ounce of Prevention Council is short-sighted.

The majority's claims that S. 10 gives "generous" support to prevention does not survive close scrutiny. In fact, the bill creates over $700 million in new annual spending, but a mere 6 percent is dedicated to prevention, nowhere near the more than 20 percent promised in the 1994 crime bill. This does not even come close to promoting the kind of balanced juvenile crime strategy that police and prosecutors believe is necessary.

In particular, the majority report contains the misleading assertion that the centerpiece of this bill, a $500 million per year Incentive Block Grant Program, directs $1 billion over 5 years toward prevention. In fact, there is no guarantee that a single penny from this new program will go to prevention. Instead, the program sets other priorities. It requires States to spend at least 35 percent on the prosecution and incarceration of juvenile offenders, or construction of juvenile facilities, at least 15 percent on drug testing of juvenile offenders, and at least 10 percent on automating juvenile records so they are equivalent to adult records. Overall, then, the new program requires States to spend at least 60 percent on enforcement-related initiatives, but does not require States to spend anything to divert children from a life of crime. Prevention should also be a priority.

The contention in the majority report that $1 billion from the Incentive Block Grant Program can be spent on prevention simply ignores the realities of how this program will operate. As noted above, 60 percent of the Incentive Block Grant program is earmarked for enforcement-related initiatives. As for the remaining 40 percent, prevention is only one of a host of allowable uses, including construction of juvenile detention facilities, hiring of juvenile prosecutors and juvenile corrections officers, drug testing of juvenile offenders, and automation of juvenile records.

It is highly likely that the nonearmarked funds will be directed largely to these other purposes. States will have to spend a considerable amount of their funds just to comply with the new mandates they need to satisfy in order to qualify for block grants. For example, the Department of Justice preliminarily estimates that States will have to spend $600 million to comply with the records mandate alone.[88] And, even if some funds are remaining, recent history shows that States all too often succumb to the irresistible political

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funding in the appropriations bill for the President's "Anti-truancy, school violence and crime intervention" program, which expands title V with a few minor revisions.

[88] Preliminary Estimate by the Department of Justice, July 1997.

impulse to "look tough" by spending almost everything on enforcement-related measures rather than investing in prevention.

Experience with the Byrne Grant program and the Local Law Enforcement Block Grant program demonstrates that crime prevention programs fare quite poorly when they must compete with other enforcement-related uses. In fact, given discretion on how to spend the Federal funds provided under those two grant programs, States have spent no more than 9 percent of the money available on prevention.[89] If history is a guide, since $300 million or 60 percent is already spoken for, this means that prevention will get at most $18 million (just 9 percent) of the $200 million remaining. This amounts to less than 4 percent of the total $500 million per year Incentive Block Grant, and is a woefully inadequate commitment to prevention. By focusing on how the nonearmarked portion of the Incentive Block Grant program may be spent, the majority report ignores the realities of how prevention programs actually fare when forced to compete with other allowable uses and paints an unrealistically rosy picture of this bill's commitment to prevention.

The Incentive Block Grant program, as currently crafted, does not strike the proper balance between enforcement and prevention. If the Incentive Block Grant funds are to be subject to earmarks, it is imperative to earmark a substantial percentage of the program for prevention initiatives, such as afterschool programs that provide safe havens and other alternatives to gang membership for at-risk youth. Regrettably, an amendment offered by Senator Specter to earmark money in the Incentive Block Grant Program for prevention failed narrowly, although we are heartened that this proposal enjoyed bipartisan support. With the support of police and prosecutors across the nation, and the continued leadership of Senator Specter, we will continue to work to ensure that a substantial amount of the Incentive Block Grant Program is earmarked for prevention.

In addition to its claims about the Incentive Block Grant, the majority report overstates its commitment to prevention in other ways. It claims that S. 10 authorizes $750 million over 5 years for prevention through the State formula grant program, but later boasts that 40 percent of this funding is earmarked for graduated sanctions programs, clearly an enforcement-related use. Thus, $300 million of the $750 million must be used for nonprevention initiatives. Given this earmark, the claim in the majority report that $750 million is available for prevention is simply incorrect. It is also important to understand that the $750 million is not new money, but is simply consistent with recent appropriations under the Juvenile Justice and Delinquency Prevention Act.

Similarly, the $80 million for Boys and Girls Clubs is not new prevention money. The $80 million commitment to Boys and Girls Clubs was enacted into law last year. S. 10 simply makes minor albeit helpful changes in the grant making process for providing funding to Boys and Girls Clubs. The $100 million authorized for Runaway and Homeless Youth programs ignores the fact that these programs, like most prevention programs, have actually received substantially less funding in past appropriations, despite favorable authorization levels. Specifically, the Runaway and Homeless Youth programs received $58.6 million each in 1996 and 1997, respectively, and are currently slated to receive the same in fiscal year 1998.[90] Thus, the actual Federal commitment to runaway and homeless youth programs is considerably less than the report indicates.

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[89] Newman, "Short Shrift for Prevention," Fight Crime: Invest in Kids, Press Conference, Sept. 10, 1997.

The majority report cites a recent General Accounting Office report in an effort to support its claim that ample Federal resources are devoted to prevention. Once again, close analysis reveals the report does not paint an accurate picture of the Federal investment in prevention.

The 1997 GAO report on prevention claims that there are 127 prevention programs totaling in excess of $4 billion. The $4 billion figure is misleading on a number of levels. For example, in calculating the $4 billion figure, the report counted almost $2.1 billion in Federal Job Training or vocational education programs, such as the Job Corps, as well as $328 million in Federal child abuse and neglect programs, such as child welfare services. All of these programs are vitally important, but they do not reach at-risk youth in the critical afterschool hours.[91]

The contention that there are 127 Federal prevention programs is equally misleading. Forty-seven of these programs received either no funding in 1996, or the GAO was unable to identify any amount spent. A number of the programs have also been targeted for elimination in S. 10. Many of the other programs assist disadvantaged youth in general, and are extremely important. However, they are not focused directly on preventing crime or curbing drug abuse. For example, seven programs provide assistance to homeless youth, while nine programs provide a variety of services to Native American youth, including health and mental health services. Three other programs provide mental health services for the general population. Other programs misidentified in the report as "prevention" programs include the Foster Grandparent Program, the Food Stamp Employment Program, and four programs promoting arts for youth. Once again, these programs are extremely worthwhile, but they can hardly be classified as crime prevention programs.

In fact, there are no more than 41 programs on the GAO list (spending approximately $1.1 billion) that are targeted specifically at juvenile crime and drug prevention. One of these programs, the Drug Free Schools Program, received $556 million in 1997. This program is a vitally important component of an overall prevention strategy, and deserves the funding it receives. However, it does not operate during the critical afterschool hours, when the vast amount of juvenile crime takes place.

The remaining $550 million includes all of the activities of the Office of Juvenile Justice and Delinquency Prevention, research into drug and alcohol abuse and treatment, and 39 small pilot programs or demonstration projects targeted at specific, limited populations.

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[90] Congressional Research Service, "Runaway and Homeless Youth: Legislative Issues," p. 2 (September 1997).

[91] The majority report makes reference to a GAO study claiming there are 131 prevention programs totaling approximately $4 billion. This report pertained to fiscal year 1995. The most recent GAO study, dated September 2, 1997, looked at fiscal year 1996 programs and claimed that there are 127 prevention programs totaling in excess of $4 billion.

Two conclusions emerge from a careful analysis of the GAO Report. First, there are far fewer than 127 programs, amounting to a fraction of the $4 billion, that are truly targeted at crime prevention. Second, there is woefully inadequate spending on afterschool prevention programs that provide alternatives to gang membership during the critical afterschool hours when the bulk of violent juvenile crime occurs.

It is time to stop paying lip service to prevention. The Coalition to Prevent Juvenile Crime, a nonpartisan group of police officers, prosecutors, and corrections officials, recently took out a full-page ad in a number of newspapers across the Nation imploring Congress to pass a bill that places a heavier emphasis on prevention.[92] In a recent survey of police chiefs, 90 percent agreed that we could reduce crime if the government invested more in prevention and other similar programs for at-risk youth.[93]

So many law enforcement professionals cannot be mistaken. Yet, the bill passed by the Committee, which repeals existing prevention programs and ignores the need for additional prevention dollars in the Incentive Block Grant Program to fund afterschool prevention initiatives, apparently takes issue with these police and prosecutors, not to mention children's advocates and hard working parents who cannot afford to be home when their children return from school. We should heed the advice of law enforcement professionals and others who have been in the trenches, know what works, and recognize that we cannot arrest and incarcerate our way out of the juvenile crime problem.

V. S. 10 Adopts a "Washington Knows Best" Approach Instead of Supporting Local Reform Efforts

Although the majority's report indicates support for the premise that, "Washington does not always know best, and that Federal assistance should empower States to experiment and make progressive reforms," the bill itself belies this premise. Instead, S. 10 turns federalism on its head by imposing on the States a one-size-fits-all uniform sewn-up in Washington for dealing with juvenile crime, including a usurpation of States' traditional right to try juvenile offenders in their own courts. Many States will rightly view this bill as a straight-jacket restricting what kind of reforms they can enact, and restricting their authority over their resident juveniles.

A. S. 10 WOULD SIGNIFICANTLY EXPAND FEDERAL JURISDICTION OVER JUVENILE OFFENDERS

S. 10 reverses longstanding Federal policy that the Federal Government will defer to State authorities regarding the prosecution and adjudication of juvenile offenses in cases where there is concurrent jurisdiction. The Federal Government, which for over 60 years has delegated the responsibility for the adjudication of juveniles, continues to be ill-equipped to handle these cases. This short-sighted approach of "getting tough" by providing Federal jurisdiction not just for violent or repeat juvenile offenders, but for all juvenile also runs counter to what juvenile justice experts recommend. Even as the majority's own report points out, "numerous witnesses last Congress concurred that the primary responsibility for the operation and effectiveness of the juvenile justice system remains with the State and local Government."

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[92] See e.g., Washington Times, June 11, 1997, p. A-5.

[93] McDevitt, "Police Chiefs Say More Government Investments In Kids Are Key to Fighting Crime," Fight Crime: Invest in Kids, table 1(A) (July 1996).

In 1931, the National Commission on Law Observance and Enforcement, chaired by George Wickersham, issued a report to President Hoover (the "Wickersham Commission Report'), recommending legislation authorizing the Federal Government to withdraw from juvenile cases wherever possible.[94] The Wickersham Commission noted that during the 6 months ending December 31, 1930, over 2,000 juveniles under the age of 18 years were in jail on Federal offenses.[95] The Wickersham Commission Report concluded that:

> The Federal Government is not equipped to serve as a guardian to the delinquent child. Nor should it assume this task * * *. It is desirable from every point of view that the Federal Government * * * leave the treatment of their cases to the juvenile courts or other welfare agencies of their own States.[96]

Congress responded by establishing a clear presumption that the States, in most cases, should handle juvenile offenders.[97] The majority's bill begins its usurpation of the traditional State jurisdiction over juvenile offenders by repealing this provision.[98] And, the majority's report notes the repeal of this section and reversal of longstanding Federal policy with minimal discussion, commenting only that the presumption of surrendering juvenile offenders to State authorities is "anomalous."

Under current Federal law, Federal prosecutors may exercise jurisdiction over juvenile offenders only in limited circumstances. Specifically, a juvenile charged with an act of juvenile delinquency can be proceeded against in Federal court only upon investigation and certification by the Attorney General (or his or her delegate) that (1) an appropriate State court does not have, or refuses to exercise, jurisdiction over the juvenile, (2) the State does not have adequate programs and services to provide for juveniles, or (3) the offense charged is a felony crime of violence or is an enumerated serious drug offense and there is a substantial Federal interest warranting the exercise of Federal jurisdiction.[99] Absent this certification, the juvenile "shall not be proceeded against" in Federal Court and must be surrendered to the State.[100]

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[94] U.S. National Commission on Law Observance and Enforcement, "Report on the Child Offender in the Federal System of Justice," at pp. 2–5 (1931).

[95] Id., p. 2.

[96] Id., p. 5.

[97] 18 U.S.C. 5001.

[98] See S. 10, section 101(a)(1).

[99] 18 U.S.C. 5032.

[100] A limited exception to the certification procedure applies to juveniles charged with petty offenses punishable by up to six months of imprisonment that were committed within the special maritime and territorial jurisdiction of the United States. This exception allows for summary disposition of such petty offenses as driving violations, littering, and the like in national parks,

This certification requirement reflects the general policy of Federal abstention in juvenile proceedings and helps "ensure that State and local authorities would deal with juvenile offenders wherever possible, keeping juveniles away from the less appropriate Federal channels." [101] Congress and this Committee, in particular, have consistently endorsed the concept that "juvenile delinquency matters should generally be handled by the States and that criminal prosecution of juvenile offenders should be reserved for only those cases involving particularly serious conduct by older juveniles." [102]

Indeed, when this Committee approved the 1984 amendment to the Federal Juvenile Delinquency Act that allowed for the exercise of Federal jurisdiction over juveniles charged with violent Federal felonies or controlled substance offenses, the Committee stressed the importance of also satisfying the "substantial Federal interest" requirement. Not just any violent Federal felony or Federal drug offense would warrant Federal intrusion into juvenile delinquency jurisprudence. Rather, the Committee stated its intention:

> that a determination that there is a substantial Federal interest be based on a finding that the nature of the offense or the circumstances of the case give rise to special Federal concerns. Examples of such cases could include an assault on, or assassination of, a Federal official, an aircraft hijacking, a kidnaping where State boundaries are crossed, a major espionage or sabotage offense, participation in large-scale drug trafficking, or significant or willful destruction of property belonging to the United States.[103]

This bill rejects the presumption that the States should exercise primary jurisdiction over juvenile offenders. Instead, S. 10 would bluntly require that juveniles "alleged to have committed a Federal offense shall * * * be tried in the appropriate district court of the United States * * *." [104] The bill repeals altogether the current certification requirement that the State is unwilling or unable to assume jurisdiction before Federal jurisdiction may be exercised over juveniles in nonviolent, non-drug felony or misdemeanor cases.

In addition, the bill guts the current "substantial Federal interest" requirement by allowing prosecutors to exercise Federal jurisdiction after making a nonreviewable determination that "the ends of justice otherwise so require." This new, watered-down certification requirement would apply to all juvenile felony cases. Significantly, no certification requirement whatsoever would be required in juvenile delinquency cases.[105] This is odd, since it would seem

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without the delay for juveniles or burdens on the system of a certification procedure "after investigation."

[101] *U.S.* v. *Juvenile Male*, 864 F.2d 641, 644 (9th Cir. 1988); *U.S.* v. *Male Juvenile*, 844 F. Supp. 280, 284 (E.D.Va. 1994), citing S. Rept. 1011, 93rd Cong., 2d sess. (1974) reprinted in 1974 U.S.Code Congressional & Administrative News at 5283; see also *United States* v. *Sechrist*, 640 F.2d 81, 84 (7th Cir. 1981).

[102] S. Rept. 98–225 (signed by, inter alia, Senators Thurmond, Hatch, Grassley, Specter, Biden, Kennedy, Leahy) 98th Cong., 2d sess., p. 386 (1983), reprinted in 1984 U.S.Code Congressional & Administrative News (USCCAN), pp. 3182, 3526.

[103] S. Rept. 98–225, supra, p. 389, USCCAN, p. 3529.

[104] See S. 10, section 102(a), amending 18 U.S.C. 5032(a).

[105] See S. 10, section 102(a), amending 18 U.S.C. 5032(a)(3) (juveniles "alleged to have committed a Federal offense shall * * * be tried in the appropriate district court of the United States * * * (3) in all other cases, as a juvenile.").

that these cases which involve less dangerous offenders should require the greatest showing of a Federal interest to justify the assertion of Federal authority.

The majority's bill authorizes the broadest exercise of Federal jurisdiction over any juvenile offender who commits any Federal petty, misdemeanor or felony offense or act of juvenile delinquency, including those for which the States have concurrent—and under current law, primary—jurisdiction.[106] As a result, S. 10 would open the doors of Federal courts to the entire panoply of nonserious felony and misdemeanor cases against juveniles.

Under current law, fewer than 250 juveniles [107] are processed in the Federal system each year in Federal delinquency or criminal proceedings. The sponsors of S. 10 are well aware that the proposed changes in this bill would result in an increase in the numbers of juveniles prosecuted and adjudicated within the Federal criminal justice system, even though State courts have more experience and better facilities to deal with juveniles. Indeed, the majority's report acknowledges that, "[t]he Committee also expects * * * increasing the number of juveniles prosecutions that are brought by the Federal Government," but the sponsors simply hope the number will not "increase inappropriately."

Senator Leahy's amendment, which was defeated on July 10, 1997, during Committee consideration of S. 10, would have retained the State's prerogative to handle juvenile criminal and delinquency matters. This amendment would have required the Attorney General to certify that the State is unable or unwilling to handle a nonserious violent or nonserious drug felony case or other delinquency case involving a juvenile before the exercise of Federal jurisdiction would be authorized. Similarly, an amendment offered by Senator Biden, but defeated by the Committee, would have prohibited the assertion of Federal authority over juvenile delinquency cases without a showing that the State authorities had declined jurisdiction. These amendments would have restored the proper balance between State and Federal authority in this area of the law and also would have brought S. 10 into line with the provisions of the "Juvenile Crime Control Act of 1997", H.R. 3, which passed the House of Representatives on May 8, 1997.

The sponsors of S. 10 outlined in the bill's findings the following federalism principle:

> the investigation, prosecution, adjudication, and punishment of criminal offenses committed by juveniles is, and should remain, primarily the responsibility of the States, to be carried out without interference from the Federal Government.[108]

Unfortunately, by repealing and gutting the current certification requirements for the exercise of Federal jurisdiction over juvenile offenders, S. 10 would invite exactly the "interference from the

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[106] In fact, the majority report states that "the Attorney General and U.S. Attorneys should be free to prosecute Federal crimes in addition to serious violent crimes and serious drug crimes."

[107] "Juvenile Delinquents in the Federal Criminal Justice System," Bureau of Justice Statistics Special Report, January 1997, p. 1.

[108] See S. 10, section 2(a)(12).

Federal Government" that these initial findings suggest are contrary to the objectives of the bill.

B. S. 10 WOULD IMPOSE NEW AND BURDENSOME JUVENILE RECORDKEEPING REQUIREMENTS ON THE STATES

The bill also imposes a top down approach to the new recordkeeping requirements by mandating that States, in order to qualify for S. 10's new $500 million per year Incentive Block Grant funds, meet burdensome and costly recordkeeping requirements for arrested or convicted juveniles that go further than necessary to meet the goal of protecting communities from violent offenders.[109] A sampling of the States represented on this Committee alone demonstrates that few of these States, if any, would currently qualify for a grant under this new program. Before supporting this bill in its current form, members would do well to review the proverbial "fine print" of these new recordkeeping mandates to ensure that his or her State would qualify or would be willing to modify its local laws and make the investments necessary to qualify.

We concur with the majority's statement of principle in its report that "members of society have a right to know who among them are repeat and violent offenders." Yet, S. 10 takes extreme steps to fulfill that right to know. The bill imposes new requirements that fingerprints and photographs of juveniles charged with any felony act, including nonserious, nonviolent felonies, are to be part of a national database. It also appears that adjudication and disposition records for misdemeanor or petty offenses as well as for felonies, must be maintained in the same manner and time period as adult records and be made available or accessible to the FBI, law enforcement agencies, courts, and school officials.[110] Given that since 1992, 39 States have enacted substantial reforms to open up their juvenile records, such federally imposed prescriptive requirements appear to be unnecessary.[111]

We believe we can better protect our communities by allowing the records of serious repeat and violent juvenile offenders, who account for only 5 percent of all juveniles arrested,[112] to be more easily accessible to law enforcement and the courts. But, the Federal Government should not dictate the exact details of each State's recordkeeping system as S. 10 requires. Nor can we embrace a mandate that requires the records of one-time nonviolent arrestees to be sent to schools and law enforcement agencies, particularly when those charges may later be dismissed.

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[109] S. 10, section 303(a), amending JJDPA, section 205 (42 U.S.C. 5615).

[110] S. 10 proposes similar changes for the treatment of Federal juvenile offender records. Specifically, the bill would expand access to Federal juvenile delinquency records to any school or educational institution "for the purpose of ensuring the public safety and security at such institution," and to victims. At the same time, S. 10 would eliminate the current "second chance" policy which only requires that the records of recidivist juveniles convicted of felony crimes of violence or serious drug offenses be sent to the FBI. S. 10 would require that the same personal information, including the type of offense committed and the sentence imposed, be sent to the FBI regarding any juvenile tried as an adult or adjudicated delinquent for a single misdemeanor or felony act. Finally, S. 10 would repeal the prohibition in current law against publishing the name or photograph of Federal juvenile delinquents.

[111] Torbet, et al., "State Responses to Serious and Violent Juvenile Crime," p. xv (National Center for Juvenile Justice, July 1996).

[112] Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: 1997 Update on Violence" p. 17.

To qualify for a grant under the new incentive grant program, States must make "reasonable efforts, as certified by the Governor," to have in place by July 1, 2000, laws or procedures to comply with a number of new Federal mandates. These new mandates include permitting juveniles 14 years and older to be prosecuted as adults for serious violent felonies, establishing graduated sanctions for juvenile offenders, and implementing a drug testing program upon arrest for appropriate categories of juvenile offenders. In addition, the States must also comply with the following nine new juvenile offender recordkeeping requirements:

1. All juveniles charged with, or arrested for, crimes of violence or acts that would be a felony if committed by an adult ("felony acts") must be fingerprinted and photographed;
2. Fingerprints and photographs of all juveniles charged with, or arrested for, crimes of violence or felony acts must be sent to the Federal Bureau of Investigation (FBI);
3. The State must maintain records relating to juvenile delinquency proceedings and dispositions of juveniles charged as adults that is equivalent to adult records kept for the offense;
4. Juvenile delinquency adjudication and juvenile criminal records must be retained for the same period of time as adult records;
5. Juvenile delinquency adjudication and juvenile criminal records must be made available to law enforcement agencies of any jurisdiction;
6. Juvenile delinquency adjudication and juvenile criminal records must be made available to any court having jurisdiction over the juvenile or former juvenile;
7. Juvenile delinquency adjudication and juvenile criminal records must be made available to all schools, school districts, or post-secondary schools in which the juvenile is enrolled or seeks to enroll;
8. Officials of the schools, school districts, or post-secondary schools to which juvenile delinquency adjudication and juvenile criminal records are made available must be subject to liability under "the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, under Federal and State law for handling and disclosing such information;" and
9. Juvenile delinquency adjudication and juvenile criminal records must be sent to the FBI.[113]

Complying with the nine recordkeeping requirements would be extremely burdensome for most, if not all, States. Most States do not qualify now and would have to modify their laws and invest significant funds to qualify for the block grant funds. In fact, no State represented on this Committee appears to comply with all of the new recordkeeping mandates outlined in S. 10. For example:

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[113] On July 23, 1997, Chairman Hatch offered an amendment which was accepted by the Senate Judiciary Committee that exempts from the recordkeeping requirements, for the 5 years authorized by the bill, the 5 percent of States with the lowest reported juvenile violent crime rate in the 5 years prior to 1996. This will result in the exemption of North Dakota, Vermont, and West Virginia from these onerous requirements in fiscal years 1998 to 2002. If these eligible States opt to exercise the exemption, they will lose 10 percent of the incentive grant funds for which they were eligible, since this percentage is earmarked under the bill to enhance juvenile recordkeeping.

- Only five States represented on the Committee appear to require that juveniles charged with felony acts be both fingerprinted and photographed.[114] The other States either have no statute authorizing the fingerprinting of juveniles, or merely permit such fingerprinting. Utah's statute is typical, stating: Fingerprints *may be taken* of a minor 14 years of age or older who is taken into custody for the alleged commission of an offense that would be a felony if the minor were 18 year of age or older.[115]
- Eleven States represented on this Committee do not require that photographs be taken of juvenile offenders charged with felony acts.[116]
- No State represented on this Committee requires that both the fingerprints and photographs of juveniles be sent to the FBI. In fact, only two States (Michigan and South Carolina) require juvenile fingerprints to be submitted to the FBI. Thus, under this new mandate alone, all seventeen States represented on this Committee would be ineligible for the new Federal grant program.
- No State represented on this Committee expressly permits post-secondary school officials, including college and university officials, access to the juvenile records of current or potential students. While some State statutes, such as Missouri's, allow a juvenile officer to discuss a juvenile case with "officials at the child's school",[117] the statute is silent on post-secondary school officials' access to the juvenile records of current attendees or applicants.

Compliance with these new recordkeeping requirements will not be cheap. The Department of Justice has preliminarily estimated that compliance will cost the States $600 million.[118] Although S. 10 provides for $2.5 billion over 5 years for the incentive block grant program, far less than the $600 million required is earmarked for recordkeeping. In fact, just $250 million over 5 years is dedicated to the enhancement of juvenile recordkeeping. Given that 60 percent of the incentive block grant monies are already earmarked for required uses, including the 10 percent dedicated to improve recordkeeping, States will have to spend a substantial portion of their discretionary funding on records, at the expense of other needs.

In addition to being unduly burdensome, the recordkeeping requirements are excessively broad in scope. S. 10 appears to require that all juvenile records, including the records of nonviolent, nonserious arrestees and offenders be available not only to law enforcement officials and the courts, but also to the juveniles' schools, including postsecondary schools and colleges. It would expose thousands of nonviolent juveniles to unnecessary and potentially damaging disclosure not just for felony convictions, but for felony and misdemeanor *arrests*.[119]

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[114] These States are Missouri, Ohio, New Jersey (if the juvenile is over 14 years old), Tennessee, and Wisconsin.

[115] Utah Code Ann. 78–3a–904(2) (emphasis added).

[116] States that do not require that photographs be taken of juvenile offenders who are charged with felony acts include: Arizona, Alabama, California, Delaware, Iowa, Illinois, Massachusetts, Michigan, South Carolina, Utah, and Vermont. If these juveniles are charged as adults, then most States would require that they be fingerprinted and photographed.

[117] 211.321 R.S.Mo (1).

[118] Preliminary estimate by U.S. Department of Justice, July 1997.

Although the majority's report tries to limit the application of the recordkeeping requirements to felony acts, these limitations are not clearly reflected in the bill. The majority's report indicates that the intended impact of these new juvenile offender recordkeeping requirements is to establish a national database for "juvenile *felony* records." (Emphasis added.) The report further suggests that the new requirements relating to juvenile fingerprints and photographs "apply only to juveniles arrested for a crime of violence or an act that, if committed by an adult, would be a felony * * * *not all juvenile offenses* are required to be reported." (Emphasis added.)

In contrast, the relevant provision of S. 10 requires that, "The State * * * maintains a record relating to the adjudication or disposition" of juveniles. It does not clearly limit the application to felonies because it does not say "relating to the adjudication or disposition *of a crime of violence or a felony act*". Instead, by providing that these records should be used by courts for the consideration of the *"entire juvenile history"* of an individual, S.10 suggests that nonfelony as well as felony acts will be disclosed. (Emphasis added.)[120] Even the majority's report adds to the ambiguity when it states "[r]ecords of *criminal or delinquent acts* committed by juveniles should not be destroyed simply because the offender reaches adulthood." (Emphasis added.) Thus, S. 10's new recordkeeping requirements listed above as items four through nine appears to apply to all juvenile offenders, including first-time offenders and offenders who commit misdemeanor and petty offenses, such as vandalism or shoplifting.

Even if the recordkeeping requirements were interpreted to apply just to felony records, they are still overly broad. While the definition of a felony varies from State to State, in some States knocking someone over to steal a bicycle or their lunch money has been classified as a felony. The National Center for Juvenile Justice explains that a robbery, which is generally a felony, includes a situation where a school bully tells another student, "Give me your lunch money, [illegible] I'll punch you."[121] It is clear that under any interpretation of S. 10's recordkeeping requirements, some minor offenses would stay with a juvenile for years and be disclosed to school officials wherever the juvenile seeks to enroll.

Nevertheless, the Committee rejected an amendment offered by Senator Leahy that would have clearly limited any juvenile recordkeeping requirements to crimes of violence or felony acts and preserved a role for State and local policymakers by allowing each State to comply with the new recordkeeping requirements "as it deems appropriate." As Senator Leahy argued, juveniles' adjudication records for nonfelony offenses, such as a criminal mischief spray painting offense, will have to be kept under S. 10's new mandate as long as adult criminal records.[122] He pointed out that the recordkeeping requirements were not limited to violent felonies committed by juveniles, but would also apply to offenses, such as shoplifting or setting off firecrackers.[123] Noting his support for dissemination of juvenile records for serious violent felonies, Senator Biden described these provisions in S. 10 as "overkill. This is going after a fly with a sledgehammer."[124] This amendment was voted down on July 23, 1997, on the precise grounds that the majority of the Committee wished and intended to sweep within the new juvenile recordkeeping requirements *all* juvenile offender criminal records. According to Senator Ashcroft, who opposed the Leahy amendment:

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[119] We have concerns that the new mandate that all juvenile adjudication and disposition records be sent to the FBI poses a significant risk of undermining current State laws and policies designed to protect the privacy of youthful offenders, due to the FBI's lack of a "sealing" capability.

[120] S. 10, section 303(a), revising section 205 of the JJDPA (42 U.S.C. 5615).

[121] Office of Juvenile Justice and Delinquency Prevention, "Juvenile Offenders and Victims: 1997 Update on Violence," p. 35.

> we are making too much of a distinction between violent and nonviolent crimes * * *. The idea that somehow painting on buildings is not a serious offense is an idea we ought to start rejecting in this culture.[125]

The majority report acknowledges that the changes in juvenile recordkeeping that would be required under S. 10 reflect a marked change in the treatment of juveniles offenders, and the use and availability of their records. In addition to compelling States to modify their laws and incur significant costs, expanding access to juvenile adjudication and criminal disposition records as mandated in S. 10 may have long-term adverse and unintended consequences. In the rush to punish juvenile offenders and hold them accountable, the sponsors of S. 10 failed during the debate of this bill, and again in the majority report, to address, much less resolve, these concerns over expanding access to juvenile delinquency adjudications.

For example, juvenile justice experts anticipate that increased public availability and use of juvenile delinquency records will likely result in making juvenile proceedings more adversarial and less treatment-oriented. One expert explained:

> Because the juvenile justice system is often treatment-oriented, there is no necessary relationship between the adjudicated offense and the "sentence" imposed by the court. A plea to a violent felony offense carries no greater penalty than a plea to a lesser misdemeanor where the disposition is to an indefinite term of treatment. This means that a defense counsel decision to recommend a plea to avoid being tried and sent to a youth center may now be the basis of a claim of inadequate representation for failure to consider how the adjudication record might be used in the future.[126]

In the majority's report, the sponsors of S. 10 justify the bill's wholesale rejection of the traditional confidential treatment afforded juvenile records on the grounds that "danger will continue as long as individuals whose past criminal record of violent or serious offenses is not revealed * * * because of their former status as juveniles."

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[122] Transcript of Proceedings, Senate Committee on the Judiciary, July 23, 1997, p. 41.

[123] Id., p. 46.

[124] Id., p. 39.

[125] Id., p. 47–48.

[126] Neal Miller, Principal Associate, Institute for Law and Justice, "National Assessment of Criminal Court Use of Defendant's Juvenile Adjudication Records," National Conference on Juvenile Justice Records: Appropriate Criminal and Noncriminal Justice Uses, U.S. Department of Justice, BJS (NCJ–164269) [hereinafter "BJS May 1997 Report'], p. 29 (May 1997).

Though this justification may make a good sound-bite, it fails to reflect the reality that States are already taking steps to try as adults juveniles committing "violent or serious offenses." Indeed, the majority's report notes that 49 States already permit the prosecution as adults of juveniles who commit serious violent felonies. "Once a juvenile is transferred to adult court, the record of that proceeding loses any protection as a juvenile record and is treated as an adult record."[127] Consequently, those records are generally available to the same extent as those of adult offenders. This raises the significant question of what S. 10 will accomplish by requiring the States to comply with stringent juvenile recordkeeping requirements pertaining to juvenile offenders who did not commit sufficiently serious offenses to be tried as adults.

Unfortunately, the detrimental impact of the changes proposed by S. 10 would fall primarily on the majority of juvenile offenders for whom the juvenile justice system works—that is, those juveniles who are not recidivists and whose initial contact with the juvenile or criminal justice system was their last. Lost in the majority report's litany of statistics about juvenile crime is the fundamental fact that most juvenile offenders learn their lesson the first time. "Recidivism rates among juvenile offenders have not increased, but a relatively small percentage of juvenile offenders are chronic and frequent recidivists, accounting for the vast majority of juvenile offenses. Most studies indicate that only about one-third of juvenile offenders ever commit a second offense."[128]

If S. 10 were to become law in its current form, these single-incident juvenile offenders would have their youthful indiscretions follow them for the rest of their lives, with the concomitant adverse impact that having a "rap sheet" will have on their future employment, education and lifestyle opportunities. This will place these young offenders "at a distinct disadvantage in making a 'fresh start' of their lives."[129]

This is no small matter. Dr. Jan Chaiken, Director of the Bureau of Justice Statistics at the Department of Justice, recently put the impact of such juvenile recordkeeping changes in historical perspective. Citing earlier studies, he explained:

> Among boys born in 1945, 35 percent had a police contact but only 6 percent were chronic delinquents. So, over one-third of all these boys would have had an arrest record * * *. Some of these boys went on to occupations that require background checks, such as police officers and directors of statistics agencies. So the nation would have suffered quite a bit if ordinary background checks had prevented these boys from moving forward in their chosen careers. * * * the National Youth Survey, which interviewed

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[127] SEARCH, "Privacy and Juvenile Justice Records: A Mid-Decade Status Report," p. 13, U.S. Department of Justice, Bureau of Justice Statistics, NCJ–161255 (May 1997).

[128] SEARCH, "Privacy and Juvenile Justice Records: A Mid-Decade Status Report," p. 4, U.S. Department of Justice, Bureau of Justice Statistics, NCJ–161255 (May 1997).

[129] Robert B. Acton, "Gubernatorial Initiatives and Rhetoric of Juvenile Justice Reform," 5 Journal of Law and Policy pp. 277, 305 (1996).

> a nationally representative group of boys and girls who were age 11 to 17 in 1957, recently collected all of their arrest records and found that 15 percent of boys on nationwide basis had an arrest record for other than a minor traffic offense. Of these, less than half could be considered as serious juvenile delinquents. So just remember that it is your nieces and nephews that we are talking about here.[130]

Those States that want to continue ensuring the confidentiality of juvenile records for perfectly sound policy reasons, such as providing a "second chance" to first-time juvenile offenders or to juveniles who engaged in minor felony or misdemeanor or petty offenses, would have to forego participation in the new Federal grant program. This is a tough choice but many States may reject these new Federal recordkeeping mandates in favor of their own policy choices on the treatment of juvenile records.[131] The sponsors of S. 10 should be aware that this bill will not accomplish anything if, because of inflexible, costly and burdensome recordkeeping mandates, States reject the assistance it has to offer.

C. TRIBAL GOVERNMENTS SHOULD HAVE A ROLE IN DECIDING WHETHER NATIVE AMERICAN YOUTH SHOULD BE TRIED AS ADULTS FOR CRIMES COMMITTED IN INDIAN COUNTRY

S. 10 also tramples on the sovereign rights of Native American tribes by eliminating their current authority to determine whether juvenile members should be tried as adults for a crime committed in Indian country.[132] This tribal "opt-in" clause was included in the Violent Crime Control and Law Enforcement Act of 1994 in recognition of the fact that the great majority of Federal juvenile prosecutions involve Native American youth.[133] Our traditional respect for the sovereignty of Native American tribes counsels that tribal governments should have a say in determining whether the Federal Government should take the extraordinary step of prosecuting a Native American youth as an adult when the sole basis for Federal jurisdiction is that the crime occurred in Indian country.

Virtually identical "opt-in" clauses are present in the Federal death penalty statute and the mandatory life penalty for third time serious violent and drug offenders (the "three strikes" law).[134] Again, these provisions acknowledge the proper role of sovereign tribes in the imposition of severe Federal criminal sanctions.

The underlying purpose of the tribal "opt-in" clause has not been "rendered obsolete," as the majority contends, by proposed changes to S. 10; in fact, these changes provide greater justification for giving tribal governments a role in the decisionmaking process. Under current law, at least an independent Federal judge is responsible for making the ultimate decision whether a juvenile will be tried as an adult. S. 10, however, eliminates the judicial role and, in most cases, provides the United States attorney, who may have absolutely no connection or relationship with the tribe, with unreviewable discretion to charge juveniles as adults. S. 10 also greatly expands the types of crimes for which juveniles may be tried as adults and, for most crimes, lowers the minimum age for trying juveniles as adults to 14.[135] It is difficult to understand why the majority would believe that exposing many more Native American youth to prosecution as adults, at the sole discretion of the Justice Department, "obviates" the need for tribal input into this critical decision.

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[130] Dr. Jan M. Chaiken, "Changing Laws and Policies Governing Juvenile Justice Records Radically Alter Balance Between Confidentiality and Public Access, And Increase Importance of Record Accuracy," BJS/SEARCH Conference Report, p. 12 (May 1997).

[131] Indeed, newspaper editorials about S. 10 in Vermont have posed the question, "Wouldn't it be fine if Vermont just said no?" Sunday Rutland Herald and The Sunday Times Argus, July 20, 1997.

[132] 18 U.S.C. 5032.

[133] In 1995, 61 percent of the juveniles in Federal custody were Native Americans. Bureau of Justice Statistics, "Special Report: Juvenile Delinquents in the Federal Criminal Justice System", p. 3. (January 1997).

[134] 18 U.S.C. 3598; 18 U.S.C. 3559(c)(6).

Certainly, many tribes do not share this view. The Washoe Tribe of Nevada and California as well as the Eastern Band of Cherokee Indians have written to the Committee requesting retention of the tribal "opt-in." Similarly, Senator Inouye, vice chairman of the Indian Affairs Committee, in seeking the preservation of the "opt-in," has written, "this provision is premised upon the government-to-government relationship between Indian governments and the United States, and prevents disparate impacts in Indian Country * * * we know of no compelling justification for repealing [it]." The administration bill, S. 362, would have retained the tribal "opt-in."

Contrary to the views of the majority, retention of a tribal "opt-in" clause would not allow violent Native American offenders to escape serious punishment. Under current law, if a tribe determines that a juvenile should not be tried as an adult, the Federal Government still retains authority—without consent of the tribe—to try the offender as a juvenile. Under S. 10, juvenile delinquents can be incarcerated up to age 26, ensuring that juvenile members of Native American tribes who commit serious crimes can receive serious punishment, even if the tribe determines that juvenile offenders should not be tried as adults. To claim, as the majority does, that retention of a tribal "opt-in" would mean that murderers, rapists, and burglars could receive a maximum sanction of 1-year in prison is unadulterated demagoguery.

So too is the majority's bizarre and totally unsupported contention that the "opt-in" clause will encourage Native American youth to commit murder, instead of simple assault "because there would be no significant additional punishment imposed for eliminating a witness to the crime." Of course, in the Federal juvenile system, murderers are treated more harshly than juveniles who commit simple assault. We suspect that Native American youth understand this and modify their behavior accordingly.

We fundamentally disagree with the majority's view that permitting tribes to decline Federal prosecution of their youth as adults does a disservice to potential crime victims. The vast majority of the victims of juvenile crime by Native Americans are Native Americans. In light of this, we believe that tribal governments are in the best position to determine for themselves whether the interest of community safety is better served by prosecuting offenders as juveniles or adults. The Committee bill makes that choice for the tribes without any consultation, discussion, or review.

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[135] S. 10 would actually increase the age at which juveniles may be tried as adults from 13 to 14 for certain offenses.

The majority lightly dismisses the argument that Native Americans will be disproportionately affected by the provisions of S. 10 that encourage the prosecution of juveniles as adults, noting that this is merely the consequence of falling within Federal jurisdiction. The problem is, however, that no other group of Americans bears the burden of living exclusively in Federal enclaves and therefore no other group of Americans is subject to Federal law for typical State law crimes like robbery or assault. It is quite easy for most Members of Congress to take the "get-tough" stance of increasing Federal prosecutions of juveniles as adults, since only a handful of non-Native American juveniles from each State will be prosecuted as adults under S. 10, but probably over a hundred Native Americans will face such prosecution each year. Disproportionate impact, therefore, is relevant and justifies the role tribes currently play in deciding whether their youth should be prosecuted as adults.

There is some irony in the majority's claim that it is eliminating the "opt-in" provision to promote uniformity in the application of Federal criminal law when its primary modification to the Federal juvenile code is to increase prosecutorial discretion to try juveniles as adults. If the majority's goal is to ensure that "the penalties similarly culpable Federal criminal defendants face should not vary" then the last thing it should be doing is giving federal prosecutors unfettered discretion, without any guidelines or factors to ensure uniformity across the country, to decide which juveniles should be tried as adults.

Finally, we must respond to the majority's ill-informed and unsupported view that the tribal "opt-in" clause racially discriminates in violation of the fifth amendment because it could result in a Native American juvenile offender receiving less severe punishment than a non-Native American youth for an identical crime.

This argument, like the majority's entire opposition to the "opt-in" clause, is based on a fundamental misunderstanding of the relationship between the United States and Native American tribes. As the Supreme Court has noted on numerous occasions, "Indian tribes are unique aggregations possessing attributes of sovereignty over their members and their territory."[136] As such, the Court has explained that Federal criminal regulation of Native American tribes should not be viewed as "legislation of a 'racial' group," but as "governance of a once sovereign political community."[137] Consistent with this approach, the tribal "opt-in" does not apply to all Native Americans as a race, but to persons "subject to the jurisdiction of an Indian tribe."[138]

The Supreme Court has made it quite clear that due to the unique relationship between the Federal Government and Native American tribes, laws applicable to Native American tribes are not viewed with the same skepticism by the courts as laws containing racial classifications. As the Court explained in *Morton* v.

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[136] *Worcester* v. *Georgia*, 31 U.S. 515 (1832).

[137] *United States* v. *Antelope*, 430 U.S. 641, 646 (1977).

[138] 18 U.S.C. 5032. Indeed, Native Americans who are not members of a tribe would not be covered by the tribal "opt-in." *Antelope*, at 647 and n. 7.

Mancari,[139] which upheld a limited hiring preference for qualified Native Americans in the Bureau of Indian Affairs:

> Literally every piece of legislation dealing with Indian tribes and reservations * * * single(s) out for special treatment a constituency of tribal Indians living on or near reservations. If these laws were deemed invidious racial discrimination, an entire Title of the United States Code would be effectively erased.[140]

Thus, it is well established that legislation benefitting or burdening tribal members is not subject to strict scrutiny under the Court's equal protection jurisprudence, but need only be rationally tied to the fulfillment of the United States' unique obligations to Native Americans.[141] The tribal "opt-in" clause—which allows tribal governments to provide input into the treatment of juvenile offenders in Indian country—clearly meets this permissive standard.

Additional support for the constitutionality of the tribal "opt-in" can be found in *United States* v. *Antelope*.[142] In this case, the Court unanimously rejected the claim that application of Federal criminal law to Native Americans violated equal protection principles, even though non-Native Americans—subject to State jurisdiction—would receive more lenient treatment for similar crimes. In so doing, the Court confirmed that the Constitution provided Congress with plenary authority to direct legislation specifically at Native Americans, even with respect to the criminal law.[143] Based on this authority, the Court intimated that Congress could constitutionally establish "differing penalties and burdens of proof" for Native Americans and non-Native Americans tried for the same offense.[144] Indeed, the Court noted that this authority permitted Congress to provide differing criminal schemes among tribes.[145]

Even so, the majority misses the point when it focuses on the potential maximum penalties that could be applied to Native and non-Native Americans alike. The "opt-in" clause does not establish differing maximum penalties for different classes of persons. Rather, it is directed at letting tribes decide, rather than federal prosecutors, whether tribal members shall be tried as juveniles or adults for crimes committed in Indian country. Surely Congress has authority to allocate decisionmaking authority in this manner.

D. S. 10 CREATES UNNECESSARY, OVERLAPPING NEW FEDERAL CRIMES TO ADDRESS GANGS WHEN ADEQUATE LAWS ALREADY EXIST TO COMBAT GANG VIOLENCE

Title II of S. 10, the so-called "Federal Gang Violence Act," would continue the recent trend of federalizing crimes traditionally handled at the State and local level. In fact, the new Federal "criminal gang" statute can be triggered even though the defendant has not personally engaged in any interstate activities, or even activities that affect interstate commerce.[146] As the Judicial Conference has noted, this provision is "in derogation of fundamental principles of federalism."[147]

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[139] 417 U.S. 535 (1974).

[140] Id., p. 552.

[141] *Delaware Tribe* v. *Weeks*, 430 U.S. 73, 83–84 (1977).

[142] 430 U.S. 641 (1977).

[143] Id. at 645–47.

[144] Id. at 649 n. 11.

[145] Id. at 648 n. 8.

While some crime control problems require Federal Government intervention, we are not convinced that creating new Federal crimes is what needs to be done to address our national gang problem. There are dozens of laws on the books that both State and Federal law enforcement authorities can use to attack the illegal activities of criminal gangs. S. 10's new Federal gang crimes—characterized by the Justice Department as "cumbersome"—create the mirage that we are "cracking down on gangs," when in fact, these laws are likely to gather dust in the statute books while prosecutors pursue anti-drug trafficking, witness intimidation, RICO, robbery, extortion, gun trafficking, or other prosecutions against gang members.[148] We are also concerned that the new omnibus gang crime, with its lengthy list of predicate offenses, may create overlapping jurisdiction and potential conflicts among law enforcement agencies.

The Federal Government can play a constructive role in assisting State and local law enforcement investigate and prosecute criminal gangs that are doing great damage in many of our cities and spreading their activities into suburbs, rural areas, and Indian country. For example, in 1995, Federal prosecutors in Connecticut obtained convictions against the entire statewide leadership of the Latin Kings on murder and other charges. Eight of the gang leaders were sentenced to life imprisonment; the ninth was sentenced to 35 years.[149] RICO prosecutions are also an effective tool to attack gangs as criminal organizations. In the first 9 months of 1996, the Justice Department approved 33 gang-related RICO prosecutions, up from just 14 in all of 1991.[150] Federal prosecutors in Boston have also successfully prosecuted a number of gang members as part of Boston's gang suppression strategy.

The Federal Government can also assist in local efforts to break up illegal gun distribution markets that feed weapons to gangs and other violent youths. Seventeen cities are currently participating in the Bureau of Alcohol, Tobacco, and Firearms's Youth Crime Gun Interdiction Initiative. These communities submitted more than 37,000 gun tracing requests to BATF, in an effort to identify the source of guns used in crimes and disrupt the illegal firearms markets.[151] In Boston alone, gun tracing has linked guns to 17 homicides and 89 shootings that would otherwise have been cold files sitting in prosecutors' offices.[152]

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[146] S. 10, section 203.

[147] Letter from Maryanne Trump Barry, Chair, Committee on Criminal Law of the Judicial Conference of the United States, to Senator Fred Thompson, July 30, 1996, p. 4.

[148] Letter from Andrew Fois to Senator Orrin Hatch, July 9, 1997. The Judicial Conference's analysis of a precursor to section 203 is also instructive. The Conference notes:

> [T]he extreme complexity of the criminal gang provisions would likely result in a great deal of protracted litigation. For example, these provisions include a number of interdependent definitions, such as "criminal street gang," "predicate gang crime," "pattern of criminal gang activity," and "unlawful activity," some of which are not entirely clear, but all of which must be found to apply for prosecution.

Letter from Maryanne Trump Barry, Chair, Committee on Criminal Law of the Judicial Conference of the United States, to Senator Fred Thompson, July 30, 1996, p. 4.

[149] Department of Justice, Anti-Violent Crime Initiative: The Attorney General's Report to the President, September, 1996.

[150] Letter from Department of Justice, Organized Crime and Racketeering Section, to Senator John Ashcroft, Oct. 3, 1996.

[151] Press Release, ATF News, July 19, 1997.

Title II of S. 10 does contain some useful anti-gang provisions relating to the creation of high intensity gang areas, inclusion of new RICO predicate crimes, and enhanced sentences for gang franchising. Senator Leahy's amendment—endorsed by the Committee—added important provisions strengthening the Federal witness intimidation statute, increasing RICO penalties for gang activities, and extending the statute of limitations for murder.[153] Likewise, an amendment by Senator Biden adopted by the Committee will target illegal gun markets by providing new criminal forfeiture authority to Federal law enforcement agencies and increasing penalties for assisting illegal purchases of firearms, transferring firearms with obliterated serial numbers, and firearms conspiracy.[154]

These targeted measures, combined with increased Federal investigation and prosecution of criminal gangs, are the right ways to address this serious problem. Simply passing unnecessary new Federal crimes may sound tough, but will not deter or reduce illegal gang activities.

CONCLUSION

Combating juvenile crime is a pressing national priority. Recent nationwide statistics, and the examples of cities such as Boston, show that we are making progress. However, the youth violence that occurs on a daily basis in many parts of the country is a grim reminder that we have a long way to go. This bill, while it may sound tough, does not take us in the right direction. In fact, the Coalition to Prevent Juvenile Crime, a nonpartisan group of prosecutors, police and corrections officials, has concluded that this bill will result in "more severe crimes being committed on the streets * * * [and] greater injustices being perpetrated in jails."[155] We must work to craft a bill that builds on recent successes in reducing juvenile crime and truly attacks the problems that persist. Regrettably, we are not there yet, and we therefore cannot support this bill.

PATRICK LEAHY.
EDWARD KENNEDY.
JOE BIDEN.
HERB KOHL.
RUSSELL FEINGOLD.
RICHARD DURBIN.

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[152] "S. 191, Criminal Use of Guns," hearing before the Committee on the Judiciary, U.S. Senate, 105th Cong., 1st sess. (1997) (testimony of Paul F. Evans).

[153] S. 10, section 211-212, 518.

[154] S. 10, sections 505-510.

[155] "Lock Up a 13 Year Old With Murderers, Rapists And Robbers, And Guess What He'll Want to Be When He Grows Up," Washington Times, June 11, 1997, p. A-5.

VIII. ADDITIONAL VIEWS OF SENATOR GRASSLEY

In my view, the current Federal laws dealing with juvenile crime are stuck in a timewarp. Twenty years ago, when these laws were first enacted, youthful offenders were not as violent and predatory as they are today. At that time, juveniles primarily committed petty offenses. So naturally, these Federal laws were an effort to deal with minor offenses committed by juvenile criminals. The "Violent and Repeat Juvenile Offender Act of 1997" modernizes the Federal laws dealing with juvenile crime so that Americans will be safer in their homes and their communities. Our first order of business in Congress is to protect the public from predators—no matter how young or old they are. I believe that it is a sad commentary that so many members of the minority on the Judiciary Committee opposed this important and badly needed legislation.

I support smart crime prevention programs and I am pleased that the "Violent and Repeat Juvenile Offender Act of 1997" includes significant resources for prevention programs. However, it seems to me that many who blindly advocate prevention programs fail to understand that incarceration is the best form of crime prevention. When murderers, rapists and drug dealers are locked up, their ability to victimize law-abiding Americans is greatly reduced. Because prison is a key component of preventing crime, this bill will encourage the States to lock up more violent juveniles for longer periods of time.

Moreover, the "Violent and Repeat Juvenile Offender Act of 1997" contains funds specifically targeted to non-incarceration prevention programs. Those who criticize this bill as not providing enough for prevention resources can only mean that resources directed toward incarceration should be diverted for other types of prevention programs. I believe that this perspective is wrong for America. It will result in more murderers, rapists and drug dealers roaming America's streets, and represents an unreasonable adherence to a liberal vision of our Nation which has demonstrably failed in protecting law-abiding Americans from criminals. It is time to stop coddling vicious criminals.

One feature of this bill which I believe has been a long time in coming is graduated sanctions. An obvious way of preventing future crime is to send a clear message the very first time a juvenile enters the criminal justice system. If a juvenile who has committed a crime walks away with no consequences, that young person has learned that crime is OK because there are no consequences. It is human nature for young people to push the envelope. When I conducted a series of town meetings in Iowa on juvenile crime, one of the messages I heard over and over is that kids need to know that there are consequences for their actions. So, graduated sanctions—where juveniles feel some discomfort the first time they get caught—is key to deterring and preventing juvenile crime.

Unfortunately, the so-called Federal mandates currently associated with federal law have had the practical effect of giving juveniles a "get out of jail free card." The status offender mandate, which has really caused havoc in my home State, means that teens can buy cigarettes or liquor without consequence. They can skip school or run away from home without consequence. This must end.

In the Judiciary Committee, I worked with Senator Biden to develop a reasonable compromise to change this out-dated mandate. The compromise status offender amendment is more flexible than current law in important respects. When Senator Sessions chaired a hearing on the mandates, Judge Don Reader, a juvenile justice judge with decades of experience dealing with juvenile criminals, indicated that judges need to be able to hold runaways for 12 days to assess what is best for the child. Under the Biden-Grassley amendment, judges will be able to hold runaways for up to 14 days to assess what is in the best interest of the child.

But I have never heard someone say the other status offenders, like truants and curfew violators, need to be detained for a long period of time. So, under the Biden-Grassley amendment, status offenders other than runaways can be held for up to 3 days. When I was in Iowa, a prosecutor told me how he had dealt with a chronic truant. He arranged with a local judge to lock him up for just 1 night. Since this one night of incarceration, that chronically truant child has not missed any school. So 3 days for truants and curfew violators should be more than sufficient. In short, the Biden-Grassley amendment provides states with greater flexibility than current law but focuses that flexibility on the specific situations where it is most needed.

It is important to understand that current law regarding runaways is causing real problems in human terms. This year, when the Youth Violence Subcommittee held a hearing on the mandates, Ms. Judy Nish of Marion, Iowa, came to testify to the Subcommittee about how the status offender mandate had disrupted her family. Because of the mandate, Ms. Nish could not get the police to detain her daughter who was habitually running away from home. Ms. Nish's daughter ended up living with her adult boyfriend. As Ms. Nish put it, "everyone gets to parent my child but me. And I'm tired of it." Partly as a result of Ms. Nish's situation, both houses of the Iowa legislature passed a resolution asking the Federal Government to abolish the status offender mandate outright.

In that same hearing, Judge Reader—who has over 20 years of experience as a juvenile judge—stated that based on his extensive experience, runaways need to be held for their own good. Since runaways cannot be held because of the status offender mandate, what happens to them? According to Judge Reader's testimony, these children are drawn into prostitution and drug dealing. Many become prey to violent adult predators. Some end up being abused in child pornography. In other words, the status offender mandate has created a ready pool of young people who are horribly victimized by pimps and pornographers. While I understand the good intentions behind the status offender mandate, the reality is that this mandate actually harms children. I believe that the Biden-Grassley amendment will go a long way toward fixing this problem.

On another matter related to juvenile justice reform, the Judiciary Committee accepted an amendment I offered with Senator Feinstein so that parks and recreation authorities are eligible to receive Federal prevention funds. Some States, like Iowa, do not have very many Boys and Girls Clubs. Public park and recreation authorities are well prepared to provide after-school education, gang prevention, mentoring and other prevention programs. My amendment makes it clear that parks and recreation centers or community-based non-profits are eligible to receive prevention dollars in those States. The amendment also provides that neither the parks and recreation authorities nor the community-based non-profits will supplant existing public or non-profit programs, such as Boys and Girls Club. Accordingly, no one who is a supporter of Boys and Girls Clubs should feel threatened by this amendment.

The Judiciary Committee accepted a narrowed version of an amendment I offered to make America's schools safer by removing drugs, alcohol, and tobacco. The original version of this amendment would have mandated that students found to be in possession of illegal narcotics on school grounds on even one occasion be expelled from school for 1 year. The original amendment would also have required a 1-year period of expulsion for any underage student found to be in regular possession of alcohol or tobacco on school premises. Since some members of the Committee expressed concerns that the amendment was overly broad, I narrowed it significantly. As modified and accepted by the Committee, the new amendment was narrowed so that:

(A) Only students who bring enough illegal drugs to school to be prosecuted for possession with intent to distribute will be expelled for a year. This provision will help get drug pushers off school grounds.

(B) Underage students who—on a regular basis—bring tobacco or alcohol to school will be expelled for up to 6 months. If minors cannot smoke or consume alcohol, it is logical to say that they should not smoke or consume alcohol on school premises either.

(C) Students who bring small quantities of illegal drugs—not enough to create a presumption of intent to distribute—will be expelled for a period from 1 week to 6 months. Even small quantities of illegal drugs on school grounds can be dangerous. Even a small amount of methamphetamine or crack consumed by a student can present a safety risk to other students.

I believe that my amendment will protect law-abiding students who come to school to learn. Too many times, Congress focuses its attention on the particular needs of disruptive students, who misbehave and make it difficult for the students who follow the rules to learn. While we should and must punish wrongdoers, I think it is just as important to protect the young people who go to school to learn. As we all know, some of America's schools have become very dangerous. When parents send their children off to school, they have a right to expect that the schools will not be havens for drug pushers, drugs or drug paraphernalia. My amendment will at least help give parents a little more peace of mind.

Finally, I would like to echo a point made when the original Gun-Free Schools Act, which my Safe Schools amendment expands, was on the floor of the Senate in 1994. At that time, Senator Dorgan said:

> And what is happening, in too many cases in our schools, is a direct reflection of a lot of other things in our society that cause all of us great anxiety and cause us to wonder how on Earth are we going to put this back together. How are we going to respond to the epidemic of crime so people in this country—especially our children in school—can feel safe?
>
> See 140 Cong. Rec. at S6587.

I think that Senator Dorgan had it exactly right back in 1994. But since then, we know that teen drug use has risen dramatically. So, my amendment responds to this changed situation. As we all know, drug pushers carry guns. So it is likely that some of the students who carry guns to schools are also somehow involved in illegal drugs. And among teens who are beginning to experiment with drugs, tobacco and alcohol use is often an early sign that a teen is going to be involved in the use of controlled substances. Many substance abuse counselors believe that alcohol abuse by teens is often a gateway to other substance abuse problems. My amendment therefore separates students who regularly and flagrantly use tobacco or alcohol in school from other students who follow the rules. This will create a safer and more secure environment for students to learn and grow.

The Committee also accepted an amendment I offered to require States who wish to receive Federal prevention funds to put in place procedures for testing child molesters, child rapists and child pornographers for sexually transmitted diseases. These people should be tested to see whether they have a sexually transmitted disease. And the victim or the family of the victim should be notified of the results. In this day and age, with incurable sexual diseases, the victims have a right to know.

My amendment also provides that sentencing authorities will be notified of the results of this test. It is important for judges and parole boards to know whether a defendant created a higher degree of harm by exposing a child to a sexual disease. That is surely relevant to sentencing criminals and there is no good reason for sentencing authorities to be denied this information.

The "Violent and Repeat Juvenile Offender Act of 1997" represents a breath of fresh air in congressional policy toward juvenile crime. This legislation wisely abandons decades of ill-conceived policies which have clearly failed to protect the American people from an increasingly violent cadre of underage criminals. This legislation will put more hard-core juvenile offenders in jail for longer periods of time and give law enforcement the tools they need to protect the public.

CHUCK GRASSLEY.

IX. ADDITIONAL VIEWS OF SENATORS FEINSTEIN AND TORRICELLI

We believe that this bill will meaningfully address the problem of youth violence in America. Crimes committed by youths are growing increasingly violent, and this legislation will enable the Federal Government to help the States to confront this challenge, through increased flexibility for prosecutors, significant changes to Federal law to counter the interstate spread of criminal gangs, greater protection of the public through improved juvenile records systems, and a substantial increase in aid to States for this purpose.

However, we write separately because we believe that significant changes could and should be made to this legislation to help it more effectively meet these challenges. Specifically, in addition to the views expressed by Senator Kohl on the need to deal with the problem of gun violence, which we have joined, we share the concern of the minority with respect to the need for maintaining the separation of juveniles and adults in incarceration, for preventing the institutionalization of status offenders, and for significantly increasing the resources which the bill dedicates to preventing juveniles from becoming involved with crime in the first place. We have a real concern that this Act should not set the law back with respect to the treatment of juveniles who come into the custody of the criminal justice system. This legislation should consistently decrease juvenile crime; allowing juveniles, who may only have committed minor status offenses such as underage smoking or running away from home, to be incarcerated with adult criminals can only help to train them in a life of crime, as well as bring us back to the old days when suicides of juveniles in custody were, tragically, much more common than they are now.

We are hopeful that these shortcomings can be addressed on the floor, and will work to do so, so that this good legislation can be made better.

DIANNE FEINSTEIN.
ROBERT G. TORRICELLI.

X. MINORITY VIEWS OF SENATOR BIDEN

When addressing the problem of juvenile crime and violence, national policymakers should be taking aim at three different groups of youth: the relatively small number of juveniles who have committed serious violent crimes, minor offenders who are still capable of being turned around, and the burgeoning population of at-risk youth who will soon be entering their most crime prone years. Unfortunately, the bill reported by the Judiciary Committee falls far short of delivering what is needed for each of the three populations.

VIOLENT JUVENILE OFFENDERS

We must take strong measures to deal with the tragic cases of young children who commit violent, and sometimes heinous, crimes. Clearly, the approximately 3,000 juveniles who commit murder each year and the 100,000 other juveniles that commit serious violent felonies must be kept behind bars for a long time. Although not all of these children are irretrievable, many are and must be kept out of our communities.

S. 10 falls far short of what is needed to address this population—as it provides far too little funding to assist juvenile prosecutors and courts in punishing violent youth and fails to take any effective steps to curb the illegal gun trafficking that is fueling our youth violence epidemic.

- Juvenile courts across the Nation are overwhelmed with cases and clogged to the point of ineffectiveness. In Chicago, a staggering 70 percent of all juvenile cases are being dismissed due to lack of prosecutorial resources. As one commentator noted, this type of revolving door justice "fosters cynicism about the court, makes the public and crime victims mad and teaches young people that justice is a joke." Yet, in the face of this evidence, the Republicans have rejected the administration's call for $100 million in additional funding for hiring juvenile prosecutors and judges and operating innovative criminal justice programs to fight youth violence. Such funding would help relieve the stress on our juvenile criminal justice system and allow local governments to establish programs like Boston's "Operation Nightlight"—which has been enormously successful in reducing youth crime by putting probation officers (who know which kids on the street are the troublemakers) out on patrol with the police.
- No serious effort to stem juvenile crime can ignore the undeniable fact that easy access to guns is directly responsible for the increase in youth violence. The statistics speak for themselves:

  Juvenile handgun murders increased from 358 to 1,856 between 1984 and 1994;

  25 percent of juveniles arrested admitted to having stolen at least one gun; and .

One out of four teenage deaths resulted from a firearms injury.

S. 10 looks the other way when it comes to guns. The Committee:

Failed to address the "Juvenile Brady" effort to prohibit immediately juvenile murderers, rapists, and carjackers from owning guns for the rest of their lives;

Rejected my proposal to punish a person who transfers a firearm "having reasonable cause to believe" it will be used in a violent or drug trafficking crime; and

Defeated my proposal to increase the punishment for using laser-sights on firearms, which make firearms more threatening to law enforcement fighting gangs and crime on the street.

The failure to take action against guns in the hands of children will inevitably and severely handicap any effort to target the most violent and dangerous young criminals.

The solution proposed by the Committee for violent juvenile crime is to try more juveniles as adults in the Federal system and encourage states to try more juveniles as adults as well. But virtually every study shows that this policy will actually be counterproductive. Juveniles tried as adults are more likely to be put on probation, spend less time in prison, and commit more crimes in the future than juveniles tried and sentenced in the juvenile system. I also believe the Committee's decision to give prosecutors sole discretion to try juveniles as adults is a serious mistake. If a prosecutor wishes to try a juvenile in adult court, the prosecutor should at least be required to convince a judge that this is a wise course of action.

NON-VIOLENT OFFENDERS IN THE JUVENILE JUSTICE SYSTEM

S. 10 is almost sure to do more harm than good for the 600,000 young people who commit nonviolent crimes each year by removing the legal restrictions that keep kids out of adult jails. These kids will be back on the street in a short period of time—we need to do what we can while they are in custody to turn them around, not expose them to hardened adult criminals who will serve as negative role models and, in some cases, threaten the safety of these nonviolent offenders.

The bill permits juveniles in state custody:

To be placed in cells next to adult prisoners;

To be in physical proximity with adult prisoners so long as a guard is present;

To have "intermittent" physical contact with adult prisoners; and

To communicate with adult prisoners so long as "threats" cannot be "easily heard"

The result of these changes will be that each year 600,000 nonviolent young offenders will be released as worse criminals—and much more likely to join the ranks of very violent children—not to mention the possibility that they might be assaulted, raped, or sodomized by the adult prisoners while inside an adult facility.

The Committee took a positive step in the Federal system by adopting my amendment prohibiting physical and sound contact between juvenile and adult offenders. The bill should be further modified by extending the separation requirement to the thousands more juveniles in state custody.

Unfortunately, the Committee also rejected Senator Specter's amendment, thereby ensuring that there will be no new funding for improving the chance that juvenile offenders will not return to crime by teaching them to read, giving them job skills, and providing drug treatment while under the supervision of the juvenile justice system.

AT-RISK KIDS

The Committee's bill does virtually nothing to address the third category of children—the 39 million children now 10 years old or younger (the so-called "baby-boomerang") that stands on the edge of their teen years, when they are most at-risk of turning to drugs and crime.

For this group of children, we need to start investing in what has become a "dirty word" in Washington but prosecutors and police chiefs across the country strongly support—prevention. The logic of prevention is straightforward: since we know that the juvenile crime rate is the highest between 2 p.m. and 6 p.m. on school days, we should provide kids with productive activities during that time so they are less likely to get involved in crime and drugs or become victims of crime. It is that simple.

S. 10, however, provides no new assured funding for prevention. To be sure, prevention is listed as one of the permissible uses for the new $500 million block grant, but experience has shown that prevention rarely wins the budget battles over block grant funds. Juvenile prisons, drug testing and recordkeeping all get guaranteed specific funding—prevention programs get no such promise. Supporters of the bill cannot say "we're for prevention" on one hand, but then on the other, give prevention the short shrift by failing to provide any assurances that programs will be funded.

CONCLUSION

The Committee bill fails on all three fronts:

> Instead of targeting violent juveniles by providing greater resources for prosecutors and juvenile courts and getting guns out of the hands of violent offenders, it endorses the counterproductive path of trying more juveniles as adults;
>
> Instead of trying to improve the life prospects of nonviolent offenders who will soon be back in our communities, the bill would allow them to be placed in cells next to grizzled adult criminals—making them more likely to engage in future crimes, not less; and
>
> Instead of investing in after school prevention programs to keep our growing population of young people safe and off the street corners until their parents get home from work, the bill directs that scarce Federal resources be spent elsewhere.

It is my hope that a juvenile crime bill that takes seroius policy-based efforts against all three elements of the youth crime and drug problem will be enacted during this session of Congress. I will continue to work with my colleagues to seek improvements in the Committee's legislation when it is considered by the full Senate. But, in its present form, the Committee's bill does not pass this test.

JOE BIDEN.

XI. SUPPLEMENTAL VIEWS OF SENATORS KENNEDY, BIDEN, KOHL, FEINSTEIN, DURBIN, AND TORRICELLI

The most glaring omission in the bill reported by the Committee is its failure to take seriously the undeniable reality that our juvenile violence and gang epidemics are fueled by guns. Gun use by juveniles is rampant. The result is devastating. Guns kill over 5,000 children and teenagers each year and injure thousands more.[1] The plain truth is that unless we reduce the flow of firearms into the hands of our children, we will not see a substantial reduction in youth crime.

The statistics paint a very grim picture. Virtually the entire 153-percent increase in juvenile homicides from 1985 to 1995 was due to firearms.[2] Juveniles killed by an unknown assailant with a firearm increased 140 percent from 1980 to 1994.[3] The proportion of juvenile homicide offenders using a gun increased from 53 percent in 1983 to a staggering 82 percent in 1994.[4] Forty-two percent of all students in 1993 reported that weapons were present in their school.[5] Moreover, the United States lags behind other nations in addressing this problem: according to the Centers for Disease Control, the rate of firearms deaths among children 14 years old and younger is 12 times higher in the United States than in 25 other industrialized countries combined.[6]

We also know that a critical part of Boston's success in virtually ending juvenile gun homicides for 2 years has resulted, in part, from its efforts to target and eliminate illegal gun markets.[7]

The administration and Committee Democrats proposed a variety of approaches to crack down on gun traffickers and reduce the flow of firearms into the hands of gangs and juveniles. Virtually all of these proposals were rejected or watered down by the Committee.[8]

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[1] National Center of Health Statistics, cited in CDF Reports, August 1997, at 13 (table 2).

[2] While non-firearm murders increased by only 9 percent from 1985–1995, the number of juveniles murdered with firearms increased by 153 percent. Sickmund, Snyder & Poe-Yamagata, "Juvenile Offenders and Victims: 1997 Update on Violence," at 1 (National Center for Juvenile Justice: June 1997) (pre-publication draft).

[3] Sickmund, Snyder & Poe-Yamagata, "Juvenile Offenders and Victims: 1996 Update on Violence," at 3 (National Center for Juvenile Justice: February 1996).

[4] Id. at 24.

[5] Id. at 7.

[6] Centers for Disease Control and Prevention, "Morbidity and Mortality Weekly Report," Feb. 7, 1997, at 101.

[7] National Institute of Justice, "Research Preview: Juvenile Gun Violence and Gun Markets in Boston" (March 1997).

[8] The Committee did accept a modified version of a Biden amendment concerning guns which expanded the authority of Federal law enforcement to obtain forfeitures of firearms and increased the penalties for participating in gun trafficking conspiracies, aiding and abetting straw purchases of firearms, and possessing or transferring firearms with obliterated serial numbers. And the Committee accepted Senator Kennedy and Senator DeWine's amendment that encourages communities to trace crime guns to their original sources by giving priority for Byrne Grants to communities with gun tracing programs.

1. CHILD SAFETY LOCKS

In our opinion, the bill would be significantly strengthened if it required the sale of child safety locks with every handgun—a proposal endorsed by major law enforcement organizations like the International Brotherhood of Police Organizations, one of the Nation's largest police unions, and the Major City Chiefs, an association of police chiefs and sheriffs from the Nation's largest jurisdictions. The Committee, however, narrowly defeated—by a one-vote margin—Senator Kohl's safety lock amendment, which would require that every handgun be sold with a safety lock, and every firearm be sold with a written warning advising gun owners of the risks of improper storage and explaining how to store firearms safely.

Child safety locks are a commonsense measure that can save countless lives by preventing young people from misusing handguns. Currently, too many firearms are easily accessible to children. A recent National Institute for Justice study reported that more than one-half of the nearly 200 million privately owned firearms in this country are left unlocked.[9] And 22 million handguns—over one-third of all privately owned handguns—are kept unlocked and loaded.[10] Alarmingly, the Centers for Disease Control estimates that almost 1.2 million elementary school-aged children return from school to a home where there is no adult supervision but at least one firearm.[11]

This easy access has a devastating impact. Each year, nearly 500 children and teenagers are killed, and thousands are injured, in gun-related accidents.[12] Additionally, almost 1,500 children and teenagers commit suicide with guns each year.[13] The use of safety locks would clearly save many of these young lives. And handgun buyers will be most likely to use a safety lock if they are required to buy one, just as car drivers and passengers were more likely to use seat belts once Congress required that seat belts be installed.

Significantly, this measure also can help reduce violent crime, in spite of opponents' mistaken claims that it is not relevant to a violent crime bill. Each year, over 7,000 violent crimes are committed by juveniles using guns found in their own homes.[14] If safety locks are used on these guns, many of these violent crimes would be prevented.

The arguments raised against safety locks ring hollow, especially in light of the recent announcement by eight of—the Nation's largest handgun manufacturers that they will voluntarily comply with the heart of Senator Kohl's amendment by packaging a child safety lock with every handgun they sell. These handgun manufacturers, like supporters of Senator Kohl's amendment, recognize as groundless arguments which suggest that including safety locks with handguns will somehow create new liabilities or hinder the use of firearms for self-defense.[15] Furthermore, requiring the purchase of a safety lock, but not its use, in no way threatens the right of a handgun owner to choose another method of storage or to elect not to store the firearm safely at all. Finally, any suggestion that safety locks are merely part of an anti-gun agenda, rather than a pro-safety measure, falls on deaf ears given this endorsement of safety locks by these respected gun manufacturer.

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[9] Philip J. Cook & Jens Ludwig, "Guns in America: National Survey on Firearms," National Institute for Justice Research in Brief, at 7 (May 1997).

[10] Id. at 5, 7.

[11] Robert K. Lee & Jeffrey J. Sacks, Letter to Editor, 264 Journal of the American Medical Association 2210 (Nov. 7, 1990).

[12] National Center of Health Statistics, cited in CDF Reports, August 1997, at 13 (table 2) (annual average of 492 accidental deaths by firearms among children age 19 and under for 1993–95).

[13] Id. (annual average of 1,492 suicides by firearms among children age 19 and under for 1993–95).

[14] National Center for Juvenile Justice, "National Estimates of Violent Crimes Committed by Juveniles with a Firearm in 1995" (June 1997) (estimating that juveniles use firearms to commit over 67,000 violent crimes in a given year); Bureau of Alcohol, Tobacco and Firearms, "Juvenile Firearms Information," at 3 (Report of Juvenile Firearms Trace Initiative of 1993) (11 percent of all firearms recovered from juveniles who committed violent crimes were taken from their homes, rather than obtained by other means like being given to juveniles or purchased on the street).

Nothing less than full voluntary compliance or requiring the sale of a safety lock with every handgun so that all handguns sold include safety locks—will be effective.[16] The alternative to Senator Kohl's amendment (which was incorporated into the bill by amendment after the Kohl amendment was defeated) requires licensed firearms dealers to have safety locks available for sale, and permits the use of certain grant monies for education and training regarding firearm possession, use and storage. However, this measure is only likely to have a marginal impact at best. Even the Majority Report admits that safety locks and other safety devices are already available in "virtually any" gun store. And safety training alone does not appear to increase safe firearms storage. According to the Police Foundation and the National Institute for Justice, adults who have received formal firearms training are still as likely as those without training to keep a gun loaded and unlocked.[17]

In short, this alternate measure merely gives consumers the opportunity they already have to buy safety locks, but does nothing to require that safety locks be purchased or to encourage their use. Instead, Congress needs to take action that will actually protect children by increasing the use of child safety locks, as Senator Kohl's amendment would do.

2. GUN BAN ON DANGEROUS JUVENILES ("JUVENILE BRADY')

The Committee failed to incorporate into the bill the administration's proposal to extend the Federal gun ban to dangerous juvenile delinquents. This effort is essential to preventing juvenile murderers, rapists, carjackers, and major drug dealers from owning guns for the rest of their lives.

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[15] There is no reason to believe that this amendment will create any new liabilities. Individuals already may be held liable under current negligence law for failure to store guns safely, and in 15 States adults may be held criminally liable for unsafely storing firearms. Moreover, to put any lingering concerns to rest, we are considering how to address those concerns with new language.

Concerns about jeopardizing the ability to use firearms for self-defense are also unfounded. Initially, gun owners ultimately choose whether or not they will use safety locks; Senator Kohl's amendment simply requires that they buy one. Moreover, locks generally can be disengaged in seconds, which "conveniently preserv[es] access to guns used for self-protection." "Gun Locks," Gun Tests: The Consumer Resource for the Serious Shooter, at 23 (September 1993).

[16] The voluntary agreement announced on Oct. 9, 1997, does not cover approximately 500,000 handguns marketed in the United States each year, because the manufacturers of at lest 20 percent of all handguns were not parties to the agreement.

[17] Philip J. Cook & Jens Ludwig, "Guns in America: Results of a Comprehensive National Survey on Firearms Ownership and Use," at 21–23 (Police Foundation 1996); Philip J. Cook & Jens Ludwig, "Guns in America: National Survey on Firearms," National Institute for Justice Research in Brief, at 7 (May 1997).

Under Federal law, fugitives, felons, and other prohibited persons (such as drug addicts or illegal aliens) may not possess or transfer firearms.[18] It is also a crime to knowingly sell firearms to such persons.[19] Under the Brady law, prospective handgun purchasers must certify that they are not disqualified from purchasing a gun under Federal or State law, and wait 5 days to purchase the gun, unless a local law enforcement officer conducts a background check and finds that the purchaser is not disqualified from gun ownership.[20]

Juvenile delinquency adjudications, however, do not trigger the Federal gun ban or the Brady law. The Committee failed to accept an amendment authored by Senators Biden, Kennedy, and Kohl, however, that would have remedied this gap in the law. The amendment would have provided that any juvenile adjudicated delinquent for a serious violent or drug crime after the enactment of S. 10 would be subject to the Federal gun ban and the Brady law. Only dangerous criminals would be covered, since the gun ban and Brady law would be triggered by the same offenses as the Federal "three-strikes" laws, such as murder, rape, carjacking, kidnaping, robbery, extortion, arson, and firearms use, as well as, drug offenses involving, for example, 1 kilogram of heroin, 5 kilograms of cocaine, or 100 grams of methamphetamine.

We also note that this proposal is not adversely affected by the Supreme Court's decision on the Brady law, *Printz* v. *United States.*[21] That decision only struck down as unconstitutional an interim provision requiring local law enforcement officials to conduct background checks on prospective handgun purchasers. It has no impact on the vast majority of local law enforcement officials, who continue to conduct the background checks voluntarily. And it does not affect the permanent provisions of the Brady law, which require that background checks be conducted through the Federal instant check system, which will be in place by December 1998.

Regardless of the Court's decision, if the Brady law were expanded to cover dangerous juvenile delinquents:

- handgun purchasers would have to certify that they had not committed serious juvenile offenses;
- sheriffs who voluntarily perform background checks, and Federal officials operating the instant check system, would have to report serious juvenile offenses; and
- persons whose background checks reveal serious juvenile offenses could not purchase handguns.

Prohibiting sales to dangerous juveniles will build on the proven success of the Brady law. As of June 1, 1997, an estimated 250,000 gun sales to fugitives, felons, and other prohibited persons have been stopped;[22] we expect that this figure will be substantially increased once dangerous juvenile offenders are also precluded from purchasing handguns.

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[18] 18 U.S.C. 922(g).

[19] 18 U.S.C. 922(d).

[20] 18 U.S.C. 922(s).

[21] 117 S. Ct. 2365 (1997).

[22] Dan Mason & Gene Lauver, "Presale Firearms Checks," at 1 (Bureau of Justice Statistics, February 1997).

3. CRIMINALIZING THE TRANSFER OF FIREARMS "HAVING REASONABLE CAUSE TO BELIEVE" THE FIREARMS WILL BE USED IN A VIOLENT OR DRUG CRIME

A majority of the Committee also refused to accept a straightforward proposal to expand the law making it a crime to transfer a firearm with knowledge that it would be used in a violent or drug crime. Senator Biden proposed to lower the scienter requirement to enable prosecutions where an individual had "reasonable cause to believe" that the firearm would be used in a drug or violent crime. Strangely, members of the Committee objected to use of the "reasonable cause to believe" standard, even though it is used in at least 15 criminal laws, including a virtually identical provision in the Anti-Terrorism and Effective Death Penalty Act of 1996 (18 U.S.C. 844(o)), which made it a crime to transfer explosives to someone who has "reasonable cause to believe" the explosives will be used to commit a violent or drug trafficking crime.[23] There was no explanation provided why the standard applicable to firearms offenses should be any different from the standard for explosive offenses or the 14 other criminal laws cited.

4. LASER SIGHTING DEVICES

Another flaw in the bill reported by the Committee is the failure to impose additional punishment on gang members, violent juveniles, and other criminals that use a new, deadly weapon—the laser sight. These devices—easily attached to handguns—turn criminals into deadly accurate marksmen. As the Chicago Tribune reported last year, there was a time when police counted on the poor aim of gang members for survival.[24] The proliferation of laser sighting devices, however, is putting police officers and our communities at greater risk. As an advertisement for the "LaserMax" brags, the laser-sight provides "unquestionable intimidation."[25]

Unfortunately, the Committee rejected Senator Leahy and Biden's proposal to create a sentencing enhancement for criminals who possess these "intimidating" laser-sights or other target enhancing devices in the course of a crime. Even though this proposal was narrowed during markup to cover only criminals that actually "use" a laser-sight to meet the concerns raised by some Committee members, the amendment was defeated by a 8–9 vote.[26]

The amendment would not ban or restrict the sales of laser-sighting devices; it would only lengthen the sentence of someone convicted of a Federal crime. In short, the amendment applies to criminals, not law-abiding gun owners. Moreover, to qualify for the enhancement, the defendant would have to "possess" the device in the course of the criminal conduct. Mere possession of a laser-sight would not be a crime.

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[23] The other laws are: 18 U.S.C. 842(h), 18 U.S.C. 922(a)(5), 18 U.S.C. 922(b)(1), 18 U.S.C. 922(b)(3), 18 U.S.C. 922(d), 18 U.S.C. 922(f)(1), 18 U.S.C. 922(i), 18 U.S.C. 922(j), 18 U.S.C. 922(q)(2)(A), 18 U.S.C. 924(b), 18 U.S.C. 960(d)(3), 18 U.S.C. 964(a), 21 U.S.C. 841(d)(2), and 21 U.S.C. 843(a)(7).

[24] Lori Lessner, "Gangs Go High Tech By Using Laser Gun Sights," Chicago Tribune, Apr. 8, 1996, at 7.

[25] Advertisement, Guns & Ammo July 1996, at 23.

[26] The laser-sight provision was included in a larger "anti-gang" package proposed by Senator Leahy. This package was approved by unanimous consent after the laser-sight provision was omitted.

However, proof that the laser sight was actually attached to a firearm would not be required. These devices can be installed or detached in minutes,[27] so it will be difficult for prosecutors to prove that a device was attached to the firearm at the time of the crime. In any event, because the mere availability of the device will embolden the criminal intending to use a firearm, possession of the device, regardless of whether it was attached to the firearm, warrants the imposition of a more severe sentence.

TED KENNEDY.
JOE BIDEN.
HERB KOHL.
DIANNE FEINSTEIN.
DICK DURBIN.
ROBERT G. TORRICELLI.

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[27] Advertisement—LaserMax, Guns & Ammo, July 1996, at 23 ("install in minutes"); Advertisement—Laser Devices, Inc., Gun World, April 1996, at 13 ("installs in minutes," "fits virtually all handguns").

XII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 10, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in Roman):

UNITED STATES CODE

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TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

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PART III—EMPLOYEES

Subpart D—Pay and allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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Subchapter II—Executive Schedule Pay Rates

§5312. Positions at level I

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§5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

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[Administrator, Office of Juvenile Justice and Delinquency Prevention] *Administrator, Office of Juvenile Crime Control and Accountability*

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TITLE 18—CRIMES AND CRIMINAL PROCEDURE

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PART I.—CRIMES

CHAPTER 1—GENERAL PROVISIONS

Sec.
[1. Repealed.]
12. United States Postal Service defined.

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24. Definitions relating to Federal health care offense.
25. Use of minors in crimes of violence.

* * * * * * *

§ 24. Definitions relating to Federal health care offense

(a) As used in this title, the term "Federal health care offense" means a violation of, or a criminal conspiracy to violate—

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(b) As used in this title, the term "health care benefit program" means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.

§ 25. Use of minors in crimes of violence

(a) PENALTIES.—Except as otherwise provided by law, whoever, being not less than 18 years of age, knowingly and intentionally uses a minor to commit a crime of violence, or to assist in avoiding detection or apprehension for a crime of violence, shall—

(1) be subject to 2 times the maximum imprisonment and 2 times the maximum fine for the crime of violence; and

(2) for second or subsequent convictions under this subsection, be subject to 3 times the maximum imprisonment and 3 times the maximum fine otherwise provided for the crime of violence in which the minor is used.

(b) DEFINITIONS.—In this section:

(1) CRIME OF VIOLENCE.—The term "crime of violence" has the meaning given the term in section 16 of this title.

(2) MINOR.—The term "minor" means a person who is less than 18 years of age.

(3) USES.—The term "uses" means employs, hires, persuades, induces, entices, or coerces.

* * * * * * *

CHAPTER 11A—CHILD SUPPORT

Sec.
228. Failure to pay legal child support obligations.

[§ 228. Failure to pay legal child support obligations

[(a) OFFENSE.—Woever willfully fails to pay a past due support obligation with respect to a child who resides in another State shall be punished as provided in subsection (b).

[(b) PUNISHMENT.—The punishment for an offense under this section is—

[(1) in the case of a first offense under this section, a fine under this title, imprisonment for not more than 6 months, or both; and

[(2) in any other case, a fine under this title, imprisonment for not more than 2 years, or both.

[(c) RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663 in an amount equal to the past due support obligation as it exists at the time of sentencing.

[(d) DEFINITIONS.—As used in this section—

[(1) the term "past due support obligation" means any amount—

[(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

[(B) that has remained unpaid for a period longer than one year, or is greater than $5,000; and

[(2) the term "State" includes the District of Columbia, and any other commonwealth, possession or territory of the United States.]

§228. Failure to pay legal child support obligations

(a) OFFENSE.—Whoever—

(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000;

(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000; or

(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than $10,000;

shall be punished as provided in subsection (c).

(b) PRESUMPTION.—The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

(c) PUNISHMENT.—The punishment for an offense under this section is—

(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

(2) in the case of an offense under subsection (a)(2) or (a)(3), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

(d) MANDATORY RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(e) DEFINITIONS.—In this section—

(1) the term "support obligation" means any amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

(2) the term "State" includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

* * * * * * *

CHAPTER 26—CRIMINAL STREET GANGS

Sec.
521. Criminal street gangs.
522. Recruitment of persons to participate in criminal gang activity.

§ 521. Criminal street gangs

[(a) DEFINITIONS.—

"conviction" includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony.

["criminal street gang" means an ongoing group, club, organization, or association of 5 or more persons—

[(A) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subsection (c);

[(B) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subsection (c); and

[(C) the activities of which affect interstate or foreign commerce.

["State" means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

[(b) PENALTY.—The sentence of a person convicted of an offense described in subsection (c) shall be increased by up to 10 years if the offense is committed under the circumstances described in subsection (d).

[(c) OFFENSES.—The offenses described in this section are—

[(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years;

[(2) a Federal felony crime of violence that has as an element the use or attempted use of physical force against the person of another; and

[(3) a conspiracy to commit an offense described in paragraph (1) or (2).

[(d) CIRCUMSTANCES.—The circumstances described in this section are that the offense described in subsection (c) was committed by a person who—

[(1) participates in a criminal street gang with knowledge that its members engage in or have engaged in a continuing series of offenses described in subsection (c);

[(2) intends to promote or further the felonious activities of the criminal street gang or maintain or increase his or her position in the gang; and

[(3) has been convicted within the past 5 years for—

[(A) an offense described in subsection (c);

[(B) a State offense—

[(i) involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years' imprisonment; or

[(ii) that is a felony crime of violence that has as an element the use or attempted use of physical force against the person of another;

[(C) any Federal or State felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense; or

[(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).]

(a) DEFINITIONS.—In this section:

(1) CRIMINAL GANG.—The term "criminal gang" means an ongoing group, club, organization, or association of 5 or more persons, whether formal or informal—

(A) that has as 1 of its primary activities or purposes of the commission of 1 or more predicate gang crimes; and

(B) the activities of which affect interstate or foreign commerce.

(2) PATTERN OF CRIMINAL GANG ACTIVITY.—The term "pattern of criminal gang activity" means the commission of 2 or more predicate gang crimes committed in connection with, or in furtherance of, the activities of a criminal gang—

(A) not less than 1 of which was committed after the date of enactment of the Federal Gang Violence Act;

(B) the first of which was committed not more than 5 years before the commission of another predicate gang crime; and

(C) that were committed on separate occasions.

(3) PREDICATE GANG CRIME.—The term "predicate gang crime" means an offense, including an act of juvenile delinquency that, if committed by an adult, would be an offense that is—

(A) a Federal offense—

(i) that is a crime of violence (as that term is defined in section 16) for which the maximum penalty is imprisonment for not less than 10 years;

(ii) that involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is imprisonment for not less than 10 years;

(iii) that is a violation of section 522 (relating to the recruitment of persons to participate in criminal gang activity);

(iv) that is a violation of section 844, 875, or 876 (relating to extortion and threats), section 1084 (relating to gambling), section 1955 (relating to gambling), or chapter 73 (relating to obstruction of justice);

(v) that is a violation of—

(I) subsection (a)(1), (i), (j), (k), (o), (q), (u), (v), or (x)(1) of section 922; or

(II) subsection (b), (g), (h), (k), (l), or (m) of section 924;

(vi) that is a violation of section 1956 (relating to money laundering), to the extent that the violation of such section is related to a Federal or State offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

(vii) that is a violation of section 274(a)(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328) (relating to alien smuggling);

(B) a State offense involving conduct that would constitute an offense under subparagraph (A) if Federal jurisdiction existed or had been exercised; or

(C) a conspiracy, attempt, or solicitation to commit an offense described in subparagraph (A) or (B).

(4) STATE.—The term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(b) CRIMINAL PENALTIES.—Whoever engages in a pattern of criminal gang activity—

(1) shall be sentenced to—

(A) a term of imprisonment of not less than 5 years and not more than 25 years, fined in accordance with this title, or both; and

(B) the forfeiture prescribed in section 413 of the Controlled Substances Act (21 U.S.C. 853); and

(2) if any person engages in such activity after 1 or more prior convictions under this section have become final, shall be sentenced to—

(A) a term of imprisonment of not less than 20 years and not more than life, fined in accordance with this title, or both; and

(B) the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853).

(c) CERTIFICATION.—A person may not be prosecuted for an offense under this section unless the Attorney General, the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division personally certifies (which certification shall not be subject to review in or by any court) that, in the judgment of that official, the prosecution of that person—

(1) is in the public interest; and

(2) is necessary to secure substantial justice.

§522. Recruitment of persons to participate in criminal gang activity

(a) PROHIBITED ACT.—It shall be unlawful for any person to use any facility in, or travel in, interstate or foreign commerce, or cause another to do so, to recruit, solicit, induce, command, or cause another person to be or to remain as a member of a criminal gang, or conspire to do so.

(b) PENALTIES.—Any person who violates subsection (a) shall—

(1) if the person recruited, solicited, induced, commanded, or caused—

(A) is a minor, be imprisoned for a term of not less than 4 years and not more than 10 years, fined in accordance with this title, or both; or

(B) is not a minor, be imprisoned for a term of not less than 1 year and not more than 10 years, fined in accordance with this title, or both; and

(2) be liable for any costs incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor attains the age of 18.

(c) DEFINITIONS.—In this section:

(1) CRIMINAL GANG.—The term "criminal gang" has the meaning given the term in section 521.

(2) MINOR.—The term "minor" means a person who is younger than 18 years of age.

* * * * * * *

CHAPTER 33—EMBLEMS, INSIGNIA AND NAMES

* * * * * * *

§709. False advertising or misuse of names to indicate Federal agency

Whoever, * * *

* * * * * * *

A person who, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words "Drug Enforcement Administration" or the initials "DEA" or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration;

Whoever, except with the written permission of the Director of the United States Marshals Service, knowingly uses the words "United States Marshals Service", "U.S. Marshals Service", "United States Marshal", "U.S. Marshal", or "U.S.M.S.", or any colorable imitation of any such words, or the likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service;

* * * * * * *

CHAPTER 44—FIREARMS

* * * * * * *

§921. Definitions

(a) As used in this chapter—

(1) The term "person" and the term "whoever" include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

* * * * * * *

(33)(A) Except as provided in subparagraph (C), the term "misdemeanor crime of domestic violence" means an offense that—

* * * * * * *

(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

* * * * * * *

(ii) A person * * *

(34) The term "secure gun storage or safety device" means—

(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating or removing the device;

(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

* * * * * * *

§923. Licensing

(a) No person * * *

* * * * * * *

(d)(1) Any application submitted under subsection (a) or (b) of this section shall be approved if—

(A) the applicant is twenty-one years of age or over;

* * * * * * *

(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time; [and]

(F) the applicant certifies that—

(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;

* * * * * * *

(iii) that the applicant has sent or delivered a form to be prescribed by the Secretary, to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license[.]*; and*

(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).

* * * * * * *

(e) The Secretary may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has willfully violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter *or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device).* The Secretary may, after notice and opportunity for hearing, revoke the license of a dealer who willfully transfers armor piercing ammunition. The Secretary's action under this subsection may be reviewed only as provided in subsection (f) of this section.

* * * * * * *

§ 924. Penalties

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), or (f) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (f), [(k),] (r), (v), or (w) of section 922;

* * * * * * *

(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), (*k*), or (*o*) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

(3) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

(B) violates subsection (m) of section 922, shall be fined under this title, imprisoned not more than one year, or both[.] *, but if the violation is in relation to an offense—*

(A) under paragraph (1) or (3) of section 922(b), shall be fined under this title, imprisoned not more than 5 years, or both; or

(B) under subsection (a)(6) or (d) of section 922, shall be fined under this title, imprisoned not more than 10 years, or both.

* * * * * * *

(6)[(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

[(ii) A juvenile is described in this clause if—

[(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

[(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.]

[(B) A person other than a juvenile who knowingly] *(A) A person who knowingly* violates section 922(x)—

(i) shall be fined under this title, imprisoned [not more than 1 year] *not more than 5 years,* or both; and

(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned *not less than 1 year and* not more than 10 years, or both.

(B) Notwithstanding subparagraph (A), no mandatory minimum sentence shall apply to a juvenile who is less than 14 years of age.

* * * * * * *

(e)(1) In the case of * * *

(2) As used in this subsection—

(A) the term "serious drug offense" means—

(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), for which a maximum term of imprisonment of ten years or more is prescribed by law; [or]

(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law; *or*

(iii) any act of juvenile delinquency that, if committed by an adult, would be an offense described in clause (i) or (ii);

* * * * * * *

(h) Whoever knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be imprisoned not more than [10 years, fined in accordance with this title, or both] *10 years, and if the transferee is a person who is under 18 years of age, imprisoned for a term of not less than 3 years, fined in accordance with this title, or both.*

* * * * * * *

(*o*) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years, fined under this title, or both; and if the firearm is a machinegun or destructive device, or is equipped with a firearm silencer or muffler, shall be imprisoned for any term of years or life.

(p) Except as otherwise provided in this section, a person who conspires to commit an offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which is the object of the conspiracy.

* * * * * * *

CHAPTER 46—FORFEITURE

* * * * * * *

§981. Civil forfeiture

(a)(1) Except as provided in paragraph (2), the following property is subject to forfeiture to the United States:

* * * * * * *

(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, the Secretary of the Treasury, or the Postal Service as the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General, the Secretary of the Treasury, or the Postal Service as the case may be, may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law. *Any firearm forfeited pursuant to subsection (a)(1)(D) or section 982(a)(3) of this title shall be disposed of by the seizing agency in accordance with law.*

* * * * * * *

§ 982. Criminal forfeiture

(a)(1) The court, * * *

* * * * * * *

(3) The court, in imposing a sentence on a person convicted of an offense under—

(A) section 666(2)(1) (relating to Federal program fraud);

* * * * * * *

(F) section 1343 (relating to wire fraud),

involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

(4) The court, in imposing a sentence on a person convicted of any crime of violence (as that term is defined in section 16) or any felony under federal law, shall order that the person forfeit to the United States any firearm (as that term is defined in section 921(a)(3)) used or intended to be used to commit or to facilitate the commission of the offense.

[(4)**]** *(5)* With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises, the gross receipts of such an offense shall include any property, real or personal, tangible or intangible, which is obtained, directly or indirectly, as a result of such offense.

[(5)**]** *(6)* The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

(A) section 511 (altering or removing motor vehicle identification numbers);

* * * * * * *

(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce);

shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of such violation.

[(6)] *(7)* The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

[(6)] *(8)*(A) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title of committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States, regardless of any provision of State law—

* * * * * * *

(B) The criminal forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related administrative or judicial proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (a) and (d) of such section 413.

(9)(A) The court, in imposing a sentence on a person convicted of a gun trafficking offense described in subparagraph (B), or a conspiracy to commit such offense, shall order the person to forfeit to the United States any conveyance used or intended to be used to commit such offense, and any property traceable to such conveyance.

(B) A gun trafficking offense is described in this subparagraph if it—

(i) is a violation of—

(I) section 922(i) (transporting stolen firearms);

(II) section 924(g) (travel with a firearm in furtherance of racketeering);

(III) section 924(k) (stealing a firearm); or

(IV) section 924(m) (interstate travel to promote firearms trafficking); and

(ii) involves 5 or more firearms.

* * * * * * *

CHAPTER 73—OBSTRUCTION OF JUSTICE

* * * * * * *

§ 1512. Tampering with a witness, victim, or an informant

(a)(1) Whoever kills or attempts to kill another person, with intent to—

(A) prevent the attendance or testimony of any person in an official proceeding;

(B) prevent the production of a record, document, or other object, in an official proceeding; or

(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished [as provided in paragraph (2)] *as provided in paragraph (3).*

(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

(A) influence, delay, or prevent the testimony of any person in an official proceeding;

(B) cause or induce any person to—

(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(ii) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(iv) be absent from an official proceeding to which such person has been summoned by legal process; or

(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

[2]*(3)* The punishment for an offense under this subsection is—

(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112; and

[(B) in the case of an attempt, imprisonment for not more than twenty years.]

(B) in the case of—

(i) an attempt to murder; or

(ii) the use of physical force against any person;

imprisonment for not more than 20 years.

(b) Whoever knowingly uses intimidation [or physical force], threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

* * * * * * *

(i) In the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(j) Whoever conspires to commit any offense under this section or section 1513 shall be subject to the same penalties as those pre-

scribed for the offense the commission of which was the object of the conspiracy.

* * * * * * *

CHAPTER 89—PROFESSIONS AND OCCUPATIONS

Sec.
1821. Transportation of dentures.
1822. Using prison inmate labor and other labor for data processing of personal information.
1823. Using or distributing certain personal information that would harm children.

* * * * * * *

§ 1822. Using prison inmate labor and other labor for data processing of personal information

(a) PROHIBITION.—Whoever, in or affecting interstate or foreign commerce, knowingly uses prison inmate labor, or any worker who is registered pursuant to title XVII of the Violent Crime Control and Law Enforcement Act of 1994, for data processing of personal information shall be fined under this title, imprisoned not more than 1 year, or both.

(b) DEFINITION OF PERSONAL INFORMATION.—In this section, the term "personal information" means information (including name, address, telephone number, social security number, and physical description) about an individual, that would suffice to physically locate and contact that individual.

§ 1823. Using or distributing certain personal information that would harm children

(a) PROHIBITION.—Whoever, in or affecting interstate or foreign commerce, knowingly uses or distributes personal information about 1 or more children with the intent that the information will be used to abuse or to harm physically any child, shall be fined under this title, imprisoned not more than 1 year, or both.

(b) DEFINITIONS.—In this section—

(1) the term "child" means an individual who has not attained the age of 16 years; and

(2) the term "personal information" means information (including name, address, telephone number, social security number, and physical description) about an individual, that would suffice to physically locate and contact that individual.

* * * * * * *

CHAPTER 95—RACKETEERING

* * * * * * *

§ 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises

[(a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

[(1) distribute the proceeds of any unlawful activity; or

[(2) commit any crime of violence to further any unlawful activity; or

[(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,

[and thereafter performs or attempts to perform—

[(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

[(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.

[(b) As used in this section (i) "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102(6) of the Controlled Substances Act), or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States, or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title and (ii) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.]

(a) PROHIBITED CONDUCT AND PENALTIES.—

(1) IN GENERAL.—Whoever—

(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

(i) distribute the proceeds of any unlawful activity; or

(ii) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; and

(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), performs, attempts to perform, or conspires to perform an act described in clause (i) or (ii) of subparagraph (A);

shall be fined under this title, imprisoned not more than 10 years, or both.

(2) CRIMES OF VIOLENCE.—Whoever—

(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity; and

(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), commits, attempts to commit, or conspires to commit any crime of violence to further any unlawful activity,

shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(2) STATE.—The term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(3) UNLAWFUL ACTIVITY.—The term "unlawful activity" means—

(A) pattern of gang activity (as that term is defined in section 521);

(B) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(a))), or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

(C) extortion, bribery, arson, burglary if the offense involves property valued at not less than $10,000, assault with a deadly weapon, assault resulting in bodily injury, shooting at an occupied dwelling or motor vehicle, or retaliation against or intimidation of witnesses, victims, jurors, or informants, in violation of the laws of the State in which the offense is committed or of the United States;

(D) the use of bribery, force, intimidation, or threat, directed against any person, to delay or influence the testimony of or prevent from testifying a witness in a State criminal proceeding or by any such means to cause any person to destroy, alter, or conceal a record, document, or other object, with intent to impair the object's integrity or availability for use in such a proceeding; or

(E) any act that is indictable under section 1956 or 1957 of this title or under subchapter II of chapter 53 of title 31.

* * * * * * *

CHAPTER 96—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

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§ 1961. Definitions

As used in this chapter—

(1) "racketeering activity" means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substances or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891–894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in

connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship unlawfully), section 1426 relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461–1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1588 (relating to peonage and slavery), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property, section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341–2346 (relating to trafficking in contraband cigarettes), sections 2421–24 (relating to white slave traffic), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the

United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, **[**or**]** (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act is indictable under such section of such Act was committed for the purpose of financial gain, *(G) an offense under section 522 of this title, or (H) an offense under section 924(a) insofar as such offense is a violation of subsection (a)(1), (a)(4), (i), (j), (k), (o), (q), (u), (v), or (x)(1) of section 922, or subsection (b), (g), (h), (k), (l), or (m) of section 924 (relating to firearms violations), except that with respect to an offense under section 922 or 924 described in subparagraph (H), that offense shall be considered to be a racketeering activity only if that offense is committed by a person who knowingly furthers a Federal offense that is a serious violent felony or a serious drug offense (as those terms are defined in section 3559(e)(2))*

* * * * * * *

§ 1963. Criminal penalties

(a) Whoever violates any provision of section 1962 of this chapter shall be fined under this title **[**or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both,**]**, *imprisoned not more than the greater of 20 years or the statutory maximum term of imprisonment (including life imprisonment) applicable to a racketeering activity on which the violation is based, or both,*

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CHAPTER 103—ROBBERY AND BURGLARY

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§ 2119. Motor vehicles

Whoever**[**, with the intent to cause death or serious bodily harm**]** takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from the person or presence of another by force and violence or by intimidation, or attempts to do so, shall—

* * * * * * *

CHAPTER 109A—SEXUAL ABUSE

* * * * * * *

[§ 2247. Repeat offenders

[Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.]

§2247. Repeat offenders

(a) In General.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

(1) for an offense punishable under this chapter or chapter 110 or 117; or

(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

(b) Punishment.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.

* * * * * * *

CHAPTER 117—TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES

Sec.
2421. Transportation generally.

* * * * * * *

2425. Repeat offenders.

§2421. Transportation generally

Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than [five] *10* years, or both.

§2422. Coercion and enticement

(a) Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than [five] *10* years, or both.

(b) Whoever, using any facility or means of interstate or foreign commerce, including the mail, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years to engage in prostitution, or in any sexual act for which any person may be criminal prosecuted, or attempts to do so, shall be fined under this title or imprisoned not more than [10] *15* years, or both.

§2423. Transportation of minors

(a) Transportation with Intent to Engage in Criminal Sexual Activity.—A person who knowingly transports any individual under the age of 18 years in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title or imprisoned not more than [10] *15* years, or both.

(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.—A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this title, imprisoned not more than [10] *15* years, or both.

§2424. Filing factual statement about alien individual

(a) Whoever keeps, * * *

* * * * * * *

(b) In any prosecution brought under this section, if it appears that any such statement required is not on file in the office of the Commissioner of Immigration and Naturalization, the person whose duty it is to file such statement shall be presumed to have failed to file said statement, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section, on the ground or for the reason that the statement so required by that person, or the information therein contained, might tend to criminate that person or subject that person to a penalty or forfeiture, but no information contained in the statement or any evidence which is directly or indirectly derived from such information may be used against any person making such statement in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with this section.

§2425. Repeat offenders

(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

(1) for an offense punishable under this chapter or chapter 109A or 110; or

(2) under any applicable law of a State relating to conduct punishable under this chapter or chapter 109A or 110.

(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.

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CHAPTER 119—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

Sec.
2510. Definitions.

* * * * * * *

2522. Enforcement of the Communications Assistance for Law Enforcement Act.
2523. Exemption for communications in jails and prisons.

§ 2510. Definitions

As used in this chapter—

(1) "wire communication" means * * *

* * * * * * *

(12) "electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

(A) any wire or oral communication;

(B) any communication made through a tone-only paging device;

(C) any communication from a tracking device (as defined in section 3117 of this title); **[**or**]**

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds; *or*

(E) any communication made through a clone pager (as that term is defined in section 3127).

* * * * * * *

§ 2511. Interception and disclosure of wire, oral, or electronic communications prohibited

(1) Except as otherwise specifically provided in this chapter any person who—

(a) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

* * * * * * *

(2)(a)(i) It shall not be unlawful * * *

* * * * * * *

(h) It shall not be unlawful under this chapter—

[(i) to use a pen register or a trap and trace device (as those terms are defined for the purposes of chapter 206 (relating to pen registers and trap and trace devices) of this title); or**]**

(i) to use a pen register, a trap and trace device, or a clone pager (as those terms are defined for the purposes of chapter 206 (relating to pen registers, trap and trace devices, and clone pagers)); or

* * * * * * *

§ 2523. Exemption for communications in jails and prisons

(a) In General.—This chapter and chapter 121 do not apply with respect to the interception by a law enforcement officer, or a person acting on behalf of a law enforcement officer, of any wire, oral, or electronic communication, or the use of a pen register, a trap and trace device, or a clone pager, if—

(1) in the case of any wire, oral, or electronic communication, at least 1 of the parties to the communication is an inmate or detainee in the custody of—

(A) the Attorney General of the United States; or

(B) a State or political subdivision thereof; or

(2) in the case of a pen register, a trap and trace device, or a clone pager, the facility is regularly used by an inmate or detainee in the custody of—

(A) the Attorney General of the United States; or

(B) a State or political subdivision thereof.

(b) Regulations.—The Attorney General shall promulgate regulations governing interceptions described in subsection (a) in order to protect—

(1) communications that are privileged under any privilege recognized by the Supreme Court of the United States; and

(2) the right to counsel guaranteed by the sixth amendment to the Constitution of the United States.

(c) Definition of State.—In this subsection, the term "State" means each of the several States of the United States, the District of Columbia, and the territories, commonwealths, and possessions of the United States.

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PART II—CRIMINAL PROCEDURE

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CHAPTER 206—PEN REGISTERS [AND TRAP AND TRACE DEVICES], *TRAP AND TRACE DEVICES, AND CLONE PAGERS*

Sec.
3121. General prohibition on pen register [and trap and trace device], *trap and trace device, and clone pager* use; exception.
3122. Application for an order for a pen register [or a trap and trace device], *a trap and trace device, or a clone pager*.
3123. Issuance of an order for a pen register [or a trap and trace device], *a trap and trace device, or a clone pager*.
3124. Assistance in installation and use of a pen register [or a trap and trace device], *a trap and trace device, or a clone pager*.
3125. Emergency pen register [and trap and trace device], *a trap and trace device, or a clone pager* installation.
3126. Reports concerning pen registers [and trap and trace devices], *a trap and trace devices, and clone pagers*.
3127. Definitions for chapter.

§ 3121. General prohibition on pen register [and trap and trace device], *trap and trace device, and clone pager* use; exception

(a) In General.—Except as provided in this section, no person may install or use a pen register [or a trap and trace device], *a* *trap and trace device, or a clone pager* without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

§3122. Application for an order for a pen register [or a trap and trace device], *a trap and trace device, or a clone pager*

(a) APPLICATION.—(1) An attorney for the Government may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register [or a trap and trace device], *a trap and trace device, or a clone pager* under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction.

(2) Unless prohibited by State law, a State investigative or law enforcement officer may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register [or a trap and trace device], *a trap and trace device, or a clone pager* under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction of such State.

* * * * * * *

§3123. Issuance of an order for a pen register [or a trap and trace device] , *a trap and trace device, or a clone pager*

[(a) IN GENERAL.—Upon an application made under section 3122 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the attorney for the Government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.]

(a) IN GENERAL.—Upon an application made under section 3122, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court, or of a clone pager for which the service provider is subject to the jurisdiction of the court, if the court finds that the attorney for the Government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

(b) CONTENTS OF ORDER.—An order issued under this section—

(1) shall specify—

(A) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached, *or, in the case of a clone pager, the identity, if known, of the person who is the subscriber of the paging device, the communications to which will be intercepted by the clone pager*;

(B) the identify, if known, of the person who is the subject of the criminal investigation;

(C) the number and, in known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order, *or, in the case of a clone pager, the number of the paging device, communications to which will be intercepted by the clone pager*; and

(D) a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates; and

(2) shall direct, upon the request of the applicant, the furnishing of information facilities, and technical assistance necessary to accomplish the installation of the pen register [or trap and trace device], *trap and trace device, or clone pager* under section 3124 of this title.

(c) TIME PERIOD AND EXTENSIONS.—(1) An order issued under this section shall authorize the installation and use of a pen register [or a trap and trace device], *trap and trace device, or a clone pager* for a period not to exceed sixty days..

(2) Extension of such an order may be granted, but only upon an application for an order under section 3122 of this title and upon the judicial finding required by subsection (a) of this section. The period of extension shall be for a period not to exceed sixty days.

(d) NONDISCLOSURE OF EXISTENCE OF PEN REGISTER [OR A TRAP AND TRACE DEVICE], *TRAP AND TRACE DEVICE, OR CLONE PAGER*.—An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that—

(1) the order be sealed until otherwise ordered by the court; and

(2) the person owning or leasing the line to which the pen register or a trap and trace device is attached, *or the paging device, the communications to which will be intercepted by the clone pager,* or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

§3124. Assistance in installation and use of a pen register [or a trap and trace device], *a trap and trace device, or a clone pager*

(a) PEN REGISTERS.—Upon * * *

* * * * * * *

(c) CLONE PAGER.—Upon the request of an attorney for the Government or an officer of a law enforcement agency authorized to acquire ant use a clone pager under this chapter, A Federal court may order, in accordance with section 3123(b)(2), a provider of a paging service or other person, to furnish to such investigative or law enforcement officer, all information, facilities, and technical assistance necessary to accomplish the operation and use of the clone pager unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the programming and use is to take place.

[(c)] *(d)* COMPENSATION.—A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

[(d)] *(e)* NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this chapter or request purusant to section 3125 of this title.

[(e)] *(f)* DEFENSE.—A good faith reliance on a court order under this chapter, a request pursuant to section 3125 of this title, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

[(f)] *(g)* Communications Assistance Enforcement Orders.—Pursuant to section 2522, an order may be issued to enforce the assistance capability and capacity requirements under the Communication Assistance for Law Enforcement Act.

§3125. Emergency pen register [and trap and trace device] *trap and trace device, and clone pager installation*

(a) Notwithstanding * * *

(1) an emergency situation exists that involves—

(A) immediate danger of death or serious bodily injury to any person; or

(B) conspiratorial activities characteristic of organized crime, that requires the installation and use of a pen register [or a trap and trace device], *a trap and trace device, or a clone pager* before an order authorizing such installation and use can, with due diligence, be obtained, and

(2) there are grounds upon which an order could be entered under this chapter to authorize such installation and use;

may have installed and use a pen register [or trap and trace device], *trap and trace device, or clone pager* if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with section 3123 of this title.

(b) In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register [or trap and trace device], *trap and trace device, or clone pager*, which is earlier.

(c) The knowing installation or use by any investigative or law enforcement officer of a pen register [or trap and trace device], *trap and trace device, or clone pager* pursuant to subsection (a) without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter.

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§3126. Reports concerning pen registers [and trap and trace devices], *trap and trace devices, and clone pagers*

The Attorney General shall annually report to Congress on the number of pen register orders and orders for trap and trace devices *or clone pagers* applied for by law enforcement agencies of the Department of Justice.

§3127. Definitions for chapter

As used in this chapter—

(1) the terms "wire communcation", "electronic communication", and "electronic communication service" have the meanings set forth for such terms in section 2510 of this title;

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(4) the term "trap and trace device" means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted;

(5) the term "clone pager" means a numeric display device that receives communications intended for another numeric display paging device;

[(5)] *(6)* the term "attorney for the Government" has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

[(6)] *(7)* the term "State" means a State, the District of Columbia, Puerto Rico, and any other posssession or territory of the United States.

* * * * * * *

CHAPTER 213—LIMITATIONS

Sec.
[3281. Capital offenses.]
3281. Capital offenses and class A felonies involving murder.

* * * * * * *

3296. Class A violent and drug trafficking offenses.

[§3281. Capital offenses

[An indictment for any offense punishable by death may be found at any time without limitation.]

§3281. Capital offenses and Class A felonies involving murder

(a) CAPITAL OFFENSES.—An indictment for any offense punishable by death may be found at any time without limitation.

(b) CLASS A FELONIES INVOLVING MURDER.—

(1) IN GENERAL.—An indictment or information for any Class A felony involving murder may be found at any time without limitation.

(2) DEFINITION OF MURDER.—In this subsection, the term "murder"—

(A) has the meaning given the term in section 1111 of this title; and

(B) in the case of an offense under section 1963(a) of this title involving racketeering activity described in section

1961(1) of this title, has the meaning given that term under applicable State law."

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§3296. Class A violent and drug trafficking offenses

Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or that is a drug trafficking crime (as that term is defined in section 924(c)) unless the indictment is returned or the information is filed not later than 10 years after the date on which the offense is committed.

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CHAPTER 219—TRIAL BY UNITED STATES MAGISTRATES

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§3401. Misdemeanors; application of probation laws

(a) When * * *

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(g) The magistrate judge may, in a petty offense case involving a juvenile, that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction, exercise all powers granted to the district court under chapter 403 of this title. The magistrate judge may, in any *class A misdemeanor or any* other class B or C misdemeanor case involving a juvenile in which consent to trial before a magistrate judge has been filed under subsection (b), exercise all powers granted to the district court under chapter 403 of this title. For purposes of this subsection, proceedings under chapter 403 of this title may be instituted against a juvenile by a violation notice or complaint[, except that no] such case may proceed unless the certification referred to in section 5032 of this title has been filed in open court at the arraignment. No term of imprisonment shall be imposed by the magistrate in any such case.

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CHAPTER 227—SENTENCES

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Subchapter A—General Provisions

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§3553. Imposition of a sentence

(a) Factors To Be Considered in Imposing a Sentence.—The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

* * * * * * *

(f) *Limitation on Applicability of Statutory Minimums in Certain Cases.*—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act (21 U.S.C. 841, 844, 846) or section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 960, 963), the court shall impose a sentence pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28 without regard to any statutory minimum sentence, if the court finds at sentencing, after the Government has been afforded the opportunity to make a recommendation, that—

(1) the defendant does not have more than 1 criminal history point, as deter-

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(5) not later than the time of the sentencing hearing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

(g) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN PROSECUTIONS OF PERSONS UNDER THE AGE OF 16.—Notwithstanding any other provision of law, in the case of a defendant convicted for conduct that occurred before the juvenile attained the age of 16 years, the court shall impose a sentence without regard to any statutory minimum sentence if the court finds at sentencing, after affording the Government an opportunity to make a recommendation, that the juvenile has not been previously adjudicated delinquent for, or convicted of, a serious violent felony or a serious drug offense (as those terms are defined in section 3559(c)).

(h) TREATMENT OF JUVENILE CRIMINAL HISTORY IN FEDERAL SENTENCING.—

(1) IN GENERAL.—

(A) SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28 and the amendments made by section 111 of the Violent and Repeat Juvenile Offender Act of 1997, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide that, in determining the criminal history score under the guidelines for any adult offender or any juvenile offender being sentenced as an adult, prior juvenile convictions and adjudications for offenses described in paragraph (2) shall receive a score similar to that which the defendant would have received if those offenses had been committed when the defendant was an adult, provided that any portion of the sentence for the offense was imposed or served within 15 years after the commencement of the instant offense.

(B) REVIEWS.—The Commission shall also review the criminal history treatment of juvenile adjudications or convictions for other offenses to determine whether it should be adjusted in a similar fashion, and make any additional guideline amendments necessary to make whatever adjust-

ments it concludes are needed to implement the results of the review.

(2) OFFENSES DESCRIBED.—The offenses described in paragraph (1) shall include—

(A) any crime of violence;

(B) any controlled substance offense;

(C) any other offense for which the defendant received a sentence or disposition of imprisonment of 1 year or more; and

(D) any other offense punishable by a term of imprisonment of more than 1 year for which the defendant was prosecuted as an adult.

(3) DEFINITIONS.—The guidelines described in paragraph (1) shall define the terms "crime of violence" and "controlled substance offense" in substantially the same manner as those terms are defined in Guideline Section 4B1.2 of the November 1, 1995, Guidelines Manual.

(4) JUVENILE ADJUDICATIONS.—In carrying out this subsection, the Commission shall assign criminal history points for juvenile adjudications based principally on the nature of the acts committed by the juvenile but may also provide for some adjustment of the score in light of the length of sentence the juvenile received.

(5) EMERGENCY AUTHORITY.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable, and in any event not later than 90 days after the date of enactment of the Violent and Repeat Juvenile Offender Act of 1997, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that authority had not expired, except that the Commission shall submit to Congress the emergency guidelines or amendments promulgated under this section, and shall set an effective date for those guidelines or amendments not earlier than 30 days after their submission to Congress.

(6) CAREER OFFENDER DETERMINATION.—Pursuant to its authority under section 994 of title 28 and the amendments made by section 111 of the Violent and Repeat Juvenile Offender Act of 1997, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to provide for inclusion, in any determination whether a juvenile or adult defendant is a career offender under section 994(h) of title 28 and any computation of what sentence any defendant found to be a career offender should be given, of any act for which the defendant was previously convicted or adjudicated delinquent as a juvenile that would be a felony covered by that section if it had been committed as an adult.

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CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

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§ 3663. Order of restitution

(a)(1)(A) The * * *

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(c)(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B)(i)(II) and (ii), when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

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(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under *section 521 of this title,* chapter 46 or chapter 96 of this title or under the Controlled Substances Act (21 U.S.C. 801 et seq.).

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PART IV—CORRECTION OF YOUTHFUL OFFENDERS

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CHAPTER 401—GENERAL PROVISIONS

Sec.
[5001. Surrender to State authorities; expenses.
[5003.] *5001.* Custody of State offenders.
5002. Repealed.

[§ 5001. Surrender to State authorities; expenses

[Whenever any person under twenty-one years of age has been arrested, charged with the commission of an offense punishable in any court of the United States or of the District of Columbia, and, after investigation by the Department of Justice, it appears that such person has committed an offense or is a delinquent under the laws of any State or of the District of Columbia which can and will assume jurisdiction over such juvenile and will take him into custody and deal with him according to the laws of such State or of the District of Columbia, and that it will be to the best interest of the United States and of the juvenile offender, the United States attorney of the district in which such person has been arrested may forego his prosecution and surrender him as herein provided, unless such surrender is precluded under section 5032 of this title.

[The United States Marshal of such district upon written order of the United States attorney shall convey such person to such State or the District of Columbia, or, if already therein, to any other part thereof and deliver him into the custody of the proper authority thereof.

[Before any person is conveyed from one State to another or from or to the District of Columbia under this section, he shall signify his willingness to be so returned, or there shall be presented to the United States attorney a demand from the executive authority of such State or the District of Columbia, to which the prisoner is to be returned, supported by indictment or affidavit as prescribed by section 3182 of this title.

[The expense incident to the transportation of any such person, as herein authorized, shall be paid from the appropriation "Salaries, Fees, and Expenses, United States Marshals."]

§ [5003.] *5001.* Custody of State offenders

(a)(1) The Director of the Bureau of Prisons when proper and adequate facilities and personnel are available may contract with proper officials of a State or territory, for the custody, care, subsistence, education, treatment, and training of persons convicted of criminal offenses in the courts of such State or territory.

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CHAPTER 403—JUVENILE DELINQUENCY

Sec.
5031. Definitions.
[5032. Delinquency proceedings in district courts; transfer for criminal prosecution.]
5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution.

* * * * * * *

5039. Implementation of a sentence.

[§ 5031. Definitions

[For the purposes of this chapter, a "juvenile" is a person who has not attained his eighteenth birthday, or for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his twenty-first birthday, and "juvenile delinquency" is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult or a violation by such a person of section 922(x).]

§5031. Definitions

In this chapter:

(1) ADULT INMATE.—The term "adult inmate" means an individual 18 years of age or older arrested and in custody for, awaiting trial on, or convicted of criminal charges or an act of juvenile delinquency committed while a juvenile.

(2) JUVENILE.—The term "juvenile" means—

(A) a person who has not attained his or her eighteenth birthday; or

(B) for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his or her twenty-first birthday.

(3) JUVENILE DELINQUENCY.—The term "juvenile delinquency" means the violation of a law of the United States committed by a person prior to the eighteenth birthday of that person, if the violation—

(A) would have been a crime if committed by an adult; or

(B) is a violation of section 922(x).

(4) PROHIBITED PHYSICAL CONTACT.—

(A) IN GENERAL.—The term "prohibited physical contact" means—

(i) any physical contact between a juvenile and an adult inmate; and

(ii) proximity that provides an opportunity for physical contact between a juvenile and an adult inmate.

(B) EXCLUSION.—The term does not include supervised proximity between a juvenile and an adult inmate that is brief and incidental or accidental.

(5) SUSTAINED ORAL COMMUNICATION.—

(A) IN GENERAL.—The term "sustained oral communication" means the imparting or interchange of speech by or between an adult inmate and a juvenile.

(B) EXCEPTION.—The term does not include—

(i) communication that is accidental or incidental; or

(ii) sounds or noises that cannot reasonably be considered to be speech.

(6) STATE.—The term "State" includes a State of the United States, the District of Columbia, any commonwealth, territory, or possession of the United States and, with regard to an act of juvenile delinquency that would have been a misdemeanor if committed by an adult, an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 4506(e))).

(7) VIOLENT JUVENILE.—The term "violent juvenile" means any juvenile who is alleged to have committed, has been adjudicated delinquent for, or has been convicted of an offense that, if committed by an adult, would be a crime of violence (as that term is defined in section 16)."

[§ 5032. Delinquency proceedings in district courts; transfer for criminal prosecution

[A juvenile alleged to have committed an act of juvenile delinquency, other than a violation of law committed within the special maritime and territorial jurisdiction of the United States for which the maximum authorized term of imprisonment does not exceed six months, shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to the appropriate district court of the United States that (1) the juvenile court or other appropriate court of a State does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, (2) the State does not have available programs and services adequate for the needs of juveniles, or (3) the offense charged is a crime of violence that is a felony or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3)), section 922(x) or section 924(b), (g), or (h) of this title, and that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction.

[If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State. For purposes of this section, the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

[If an alleged juvenile delinquent is not surrendered to the authorities of a State pursuant to this section, any proceedings against him shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The Attorney General shall proceed by information or as authorized under section 3401(g) of this title, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency except as provided below.

[A juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless he has requested in writing upon advice of counsel to be proceeded against as an adult, except that, with respect to a juvenile fifteen years and older alleged to have committed an act after his fifteenth birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 922(x) of this title, or in section 924(b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, such transfer would be in the interest of justice. In the application of the preceding sentence, if the crime of violence is an offense under section 113(a), 113(b), 113(c), 1111, 1113, or, if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c), "thirteen" shall be substituted for "fifteen" and "thirteenth" shall be substituted for "fifteenth". Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to the preceding sentence for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151), and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that the preceding sentence have effect over land and persons subject to its criminal jurisdiction. However a juvenile who is alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another, or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844(d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this paragraph or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.

[Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing whether a transfer would be in the interest of justice: the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile's response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems. In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.

[Reasonable notice of the transfer hearing shall be given to the juvenile, his parents, guardian, or custodian and to his counsel. The juvenile shall be assisted by counsel during the transfer hearing, and at every other critical stage of the proceedings.

[Once a juvenile has entered a plea of guilty or the proceeding has reached the stage that evidence has begun to be taken with respect to a crime or an alleged act of juvenile delinquency subsequent criminal prosecution or juvenile proceedings based upon such alleged act of delinquency shall be barred.

[Statements made by a juvenile prior to or during a transfer hearing under this section shall not be admissible at subsequent criminal prosecutions.

[Whenever a juvenile transferred to district court under this section is not convicted of the crime upon which the transfer was based or another crime which would have warranted transfer had the juvenile been initially charged with that crime, further proceedings concerning the juvenile shall be conducted pursuant to the provisions of this chapter.

[A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until any prior juvenile court records of such juvenile have been received by the court, or the clerk of the juvenile court has certified in writing that the juvenile has no prior record, or that the juvenile's record is unavailable and why it is unavailable.

[Whenever a juvenile is adjudged delinquent pursuant to the provisions of this chapter, the specific acts which the juvenile has been found to have committed shall be described as part of the official record of the proceedings and part of the juvenile's official record.]

§5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution

(a) IN GENERAL.—A juvenile who is alleged to have committed a Federal offense shall, except as provided in subsection (d), be tried in the appropriate district court of the United States—

(1) in the case of an offense described in subsection (c), if the juvenile was not less than 14 years of age at the time of the offense, as an adult at the discretion of the United States Attorney in the appropriate jurisdiction, upon certification by that United States Attorney (which certification shall not be subject to review in or by any court) that—

(A) there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction; or

(B) the ends of justice otherwise so require;

(2) in the case of a felony offense that is not described in subsection (c) as an adult, upon certification by the Attorney General (which certification shall not be subject to review in or by any court) that—

(A) there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction; or

(B) the ends of justice otherwise so require; and

(3) in all other cases, as a juvenile.

(b) Joinder; Lesser Included Offenses.—In a prosecution under this section, a juvenile may be prosecuted and convicted as an adult for any offense that is properly joined under the Federal Rules of Criminal Procedure with an offense under subsection (c), and may also be convicted of a lesser included offense.

(c) Offenses Described.—For purposes of subsection (a)(1), an offense is described in this subsection if it is a Federal offense that—

(1) is a serious violent felony or a serious drug offense described in section 3559(c), except that the provisions of paragraph (c)(3) of section 3559 shall not apply to this section; or

(2) is a conspiracy or an attempt to commit an offense described in paragraph (1).

(d) Referral by United States Attorney.—

(1) In general.—If the United States Attorney in the appropriate jurisdiction declines prosecution of an offense under this section, the United States Attorney may refer the matter to the appropriate legal authorities of the State or Indian tribe with jurisdiction over both the offense and the juvenile.

(2) Definitions.—In this subsection:

(A) Indian tribe.—The term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(B) State.—The term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(e) Applicable Procedures.—Any action prosecuted in a district court of the United States under this section—

(1) shall proceed in the same manner as is required by this title and by the Federal Rules of Criminal Procedure in proceedings against an adult in the case of a juvenile who is being tried as an adult in accordance with subsection (a); and

(2) in all other cases, shall proceed in accordance with this chapter, unless the juvenile has requested in writing, upon advice of counsel, to be proceeded against as an adult.

(f) APPLICATION OF LAWS.—

(1) IN GENERAL.—Except as otherwise provided in this chapter, in any case in which a juvenile is prosecuted in a district court of the United States as an adult, the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing (including the availability of probation, restitution, fines, forfeiture, imprisonment, and supervised release) that would be applicable in the case of an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years. Juveniles tried as adults shall be sentenced under Federal sentencing guidelines consistent with section 994(z) of title 28, United States Code, once such guidelines are promulgated and go into effect.

(2) APPLICABILITY OF MANDATORY RESTITUTION PROVISIONS TO CERTAIN JUVENILES.—If a juvenile is tried as an adult for any offense to which the mandatory restitution provisions of sections 3663A, 2248, 2259, 2264, and 2323 apply, those sections shall apply to that juvenile in the same manner and to the same extent as those provisions apply to adults.

(g) OPEN PROCEEDINGS.—

(1) IN GENERAL.—Any offense tried in a district court of the United States under this section shall be open to the general public, in accordance with rules 10, 26, 31(a), and 53 of the Federal Rules of Criminal Procedure, unless good cause is established by the moving party or is otherwise found by the court, for closure.

(2) STATUS ALONE INSUFFICIENT.—The status of the defendant as a juvenile, absent other factors, shall not constitute good cause for purposes of this subsection.

(h) AVAILABILITY OF RECORDS.—

(1) IN GENERAL.—In making a determination concerning the arrest or prosecution of a juvenile in a district court of the United States under this section, subject to the requirements of section 5038, the United States Attorney of the appropriate jurisdiction shall have complete access to the prior Federal juvenile records of the subject juvenile and, to the extent permitted by State law, the prior State juvenile records of the subject juvenile.

(2) CONSIDERATION OF ENTIRE RECORD.—In any case in which a juvenile is found guilty in an action under this section, the district court responsible for imposing sentence shall have complete access to the prior Federal juvenile records of the subject juvenile and, to the extent permitted under State law, the prior State juvenile records of the subject juvenile. At sentencing, the district court shall consider the entire available prior juvenile record of the subject juvenile.

(3) RELEASE OF RECORDS.—The Director of the Federal Bureau of Investigation may release such Federal records and, to the extent permitted by State law, such State records, to law enforcement authorities of any jurisdiction and to officials of any school, school district, or postsecondary school at which the in-

dividual who is the subject of the juvenile record is enrolled or seeks, intends, or is instructed to enroll, if such school officials are held liable to the same standards and penalties to which law enforcement and juvenile justice system employees are held liable under Federal and State law for the handling and disclosure of such information.

§ 5033. Custody prior to appearance before magistrate

Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, in language comprehensive to a juvenile, and shall **[**immediately notify the Attorney General**]** *immediately or as soon as practicable thereafter, notify the United States Attorney of the appropriate jurisdiction and shall promptly take reasonable steps to notify* and the juvenile's parents guardian, or custodian of such custody. The arresting officer shall also notify the parents, guardian, or custodian of the rights of the juvenile and of the nature of the alleged offense.

The juvenile shall be taken before a magistrate forthwith. In no event shall be juvenile be detained for longer than a reasonable period of time before being brought before a magistrate, *and the juvenile shall not be subject to detention under conditions that permit prohibited physical contact with adult inmates or in which the juvenile and an adult inmate can engage in sustained oral communications.*

§ 5034. Duties of magistrate

[The magistrate shall insure**]**

(a) In General.—

(1) Representation by counsel.—The magistrate shall ensure that the juvenile is represented by counsel before proceeding with critical stages of the proceedings. Counsel shall be assigned to represent a juvenile when the juvenile and his parents, guardian, or custodian are financially unable to obtain adequate representation. In cases where the juvenile and his parents, guardian, or custodian are financially able to obtain adequate representation but have not retained counsel, the magistrate may assign counsel and order the payment of reasonable attorney's fees or may direct the juvenile, his parents, guardian, or custodian to retain private counsel within a specified period of time.

[The magistrate may appoint**]**

(2) Guardian ad litem.—The magistrate may appoint a guardian ad litem if a parent or guardian of the juvenile is not present, or if the magistrate has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parents or guardian and those of the juvenile are adverse.

[If the juvenile**]**

(b) Release Prior to Disposition.—Except as provided in subsection (c), of the juvenile has not been discharged before his initial appearance before the magistrate, the magistrate shall release the juvenile to his parents, guardian, custodian, or other responsible party (including, but not limited to, the director of a shelter-care

facility) upon their promise to bring such juvenile before the appropriate court when requested by such court unless the magistrate determines, after hearing, at which the juvenile is represented by counsel, that the detention of such juvenile is required to secure his timely appearance before the appropriate court or to insure his safety or that of others.

(c) RELEASE OF CERTAIN JUVENILES.—Notwithstanding subsection (b), a juvenile who is to be tried as an adult under section 5032 shall be released pending trial only in accordance with the applicable provisions of chapter 207. The release shall be conducted in the same manner and be subject to the same terms, conditions, and sanctions for violation of a release condition as provided for an adult under chapter 207.

(d) PENALTY FOR AN OFFENSE COMMITTED WHILE ON RELEASE.—

(1) IN GENERAL.—A juvenile alleged to have committed, while on release under this section, an offense that, if committed by an adult, would be a Federal criminal offense, shall be subject to prosecution under section 5032.

(2) APPLICABILITY OF CERTAIN PENALTIES.—Section 3147 shall apply to a juvenile who is to be tried as an adult under section 5032 for an offense committed while on release under this section.

§ 5035. Detention prior to disposition

[A juvenile] *(a) IN GENERAL.—A juvenile* alleged to be delinquent may be detained only in a juvenile facility or such other suitable place as the Attorney General may designate. Whenever possible, detention shall be in a foster home or community based facility located in or near his home community. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any institution in which the juvenile has [regular contact] *prohibited physical contact or sustained oral communication* with adult persons convicted of a crime or awaiting trial on criminal changes. Insofar as possible, alleged delinquents shall be kept separate from adjudicated delinquents. *To the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles.* Every juvenile in custody shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment.

(b) DETENTION OF CERTAIN JUVENILES.—

(1) IN GENERAL.—Notwithstanding subsection (a), a juvenile who is to be tried as an adult under section 5032 shall be subject to detention in accordance with chapter 207 in the same manner, to the same extent, and subject to the same terms and conditions as an adult would be subject to under that chapter.

(2) EXCEPTION.—A juvenile shall not be detained or confined in any institution in which the juvenile has prohibited physical contact with adult inmates, or can engage in sustained oral communication. To the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles.

§ 5036. Speedy trial

If an alleged delinquent who is in detention pending trial is not brought to trial within **[**thirty**]** *70* days from the date upon which such detention was begun, the information shall be dismissed on motion of the alleged delinquent or at the direction of **[**the court, unless the Attorney General shows that additional delay was caused by the juvenile or his counsel, or consented to by the juvenile and his counsel, or would be in the interest of justice in the particular case. Delays attributable solely to court calendar congestion may not be considered in the interest of justice. Except in extraordinary circumstance, an information dismissed under this section may not be reinstituted.**]** *the court. The periods of exclusion under section 3161(h) shall apply to this section. In determining whether an information should be dismissed with or without prejudice, the court shall consider the seriousness of the alleged act of juvenile delinquency, the facts and circumstances of the case that led to the dismissal, and the impact of a reprosecution on the administration of justice.*

§ 5037. Dispositional hearing

[(a) If the court finds a juvenile to be a juvenile delinquent, the court shall hold a disposition hearing concerning the appropriate disposition no later than twenty court days after the juvenile delinquency hearing unless the court has ordered further study pursuant to subsection (d). After the disposition hearing, and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994, the court may suspend the findings of juvenile delinquency, enter an order of restitution pursuant to section 3556, place him on probation, or commit him to official detention. With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of chapter 207.**]**

(a) IN GENERAL.—

(1) DISPOSITIONAL HEARING.—In a proceeding under section 5032(a)(3), if the court finds a juvenile to be a juvenile delinquent, the court shall hold a hearing concerning the appropriate disposition of the juvenile not later than 40 court days after the finding of juvenile delinquency, unless the court has ordered further study pursuant to subsection (e). A predisposition report shall be prepared by the probation officer who shall promptly provide a copy to the juvenile, the juvenile's counsel, and the attorney for the Government. Victim impact information shall be included in the report, and victims or, in appropriate cases, their official representatives shall be provided the opportunity to make a statement to the court in person or present any information in relation to the disposition.

(2) ACTIONS OF COURT AFTER HEARING.—After the dispositional hearing, after considering any pertinent policy statements promulgated by the United States Sentencing Commission pursuant to section 994 of title 28, and in conformance with the guidelines promulgated by the United States Sentencing Commission pursuant to section 994(z)(1)(B) of title 28, the court—

(A) shall place the juvenile on probation or commit the juvenile to official detention (including the possibility of a term of supervised release), and impose any fine that would be authorized if the juvenile had been tried and convicted as an adult; and

(B) may enter an order of restitution pursuant to section 3663.

(b) The term for which probation *or supervised release* may be ordered for a juvenile found to be a juvenile delinquent may not [extend—

[(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

[(A) the date when the juvenile becomes twenty-one years old; or

[(B) the maximum term that would be authorized by section 3561(c) if the juvenile had been tried and convicted as an adult; or

[(2) in the case of a juvenile who is between eighteen and twenty-one years old, beyond the lesser of—

[(A) three years; or

[(B) the maximum term that would be authorized by section 3561(c) if the juvenile had been tried and convicted as an adult.

[The provisions] *extend, in the case of a juvenile, beyond the maximum term of probation that would be authorized by section 3561, or beyond the maximum term of supervised release authorized by section 3583, if the juvenile had been tried and convicted as an adult. The provisions dealing with supervised release set forth in section 3583 and the provisions* dealing with probation set forth in sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation *or supervised release.*

(c) The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent [may not extend—

[(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

[(A) the date when the juvenile becomes twenty-one years old; or

[(B) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult; or

[(2) in the case of a juvenile who is between eighteen and twenty-one years old—

[(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

[(B) in any other case beyond the lesser of—

[(i) three years; or

[(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.

[Section 3624] *may not extend beyond the earlier of the 26th birthday of the juvenile or the termination date of the maximum term of imprisonment, exclusive of any term of supervised release, that would be authorized if the juvenile had been tried and convicted as an adult. No juvenile sentenced to a term of imprisonment shall be* *released from custody simply because the juvenile reaches the age of 18 years. Section 3624 is applicable to an order placing a juvenile under detention.*

* * * * * * *

§ 5038. Use of juvenile records

(a) Throughout and upon the completion of the juvenile delinquency proceeding, the records shall be safeguarded from disclosure to unauthorized persons. The records shall be released to the extent necessary to meet the following circumstances:

(1) inquiries received from another court of law;

(2) inquiries from an agency preparing a presentence report for another court;

(3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency *or analysis requested by the Attorney General*;

* * * * * * *

(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security; **[**and**]**

[(6) inquiries from any victim of such juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court in accordance with section 5037.**]**

(6) communications with any victim of such juvenile delinquency or, in appropriate cases, with the official representative of the victim in order to apprise such victim or representative of the status or disposition of the proceeding or in order to effectuate any other provision of law or to assist in a victim's, or the victim's official representative's, allocution at disposition; and

(7) inquiries from any school or other educational institution for the purpose of ensuring the public safety and security at such institution.

(b) ACCESS BY UNITED STATES ATTORNEY.—Notwithstanding subsection (a), in determining the appropriate disposition of a juvenile matter under section 5032, the United States Attorney of the appropriate jurisdiction shall have complete access to the official records of the juvenile proceedings conducted under this title.

[Unless**]**

(c) PROHIBITION ON RELEASE OF CERTAIN INFORMATION.—Unless otherwise authorized by this section, information about the juvenile record may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

[(b)**]** *(d) District courts exercising jurisdiction over any juvenile shall inform the juvenile, and his parent or guardian, in writing in clear and nontechnical language, of rights relating to his juvenile record.*

[(c)**]** *(e)* During the course of any juvenile delinquency proceeding, all information and records relating to the proceeding, *other* *than necessary docketing information*, which are obtained or prepared in the discharge of an official duty by an employee of the court or an employee of any other governmental agency, shall not be disclosed directly or indirectly to anyone other than the judge, counsel for the juvenile and the Government, or others entitled under this section to receive juvenile records.

[(d) Whenever a juvenile is found guilty of committing an act which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act, such juvenile shall be fingerprinted and photographed. Except a juvenile described in subsection (f), fingerprints and photographs of a juvenile who is not prosecuted as an adult shall be made available only in accordance with the provisions of subsection (a) of this section. Fingerprints and photographs of a juvenile who is persecuted as an adult shall be made available in the manner applicable to adult defendants.

[(e) Unless a juvenile who is taken into custody is prosecuted as an adult neither the name nor picture of any juvenile shall be made public in connection with a juvenile deliquency proceeding.

[(f) Whenever a juvenile has on two separate occasions been found guilty of committing an act which if committed by an adult would be a felony crime of violence or an offense described in section 401 of the Controlled Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act, or whenever a juvenile has been found guilty of committing an act after his 13th birthday which if committed by an adult would be an offense described in the second sentence of the fourth paragraph of section 5032 of this title, the court shall transmit to the Federal Bureau of Investigation the information concerning the adjudications, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matters were juvenile adjudications.]

(f) RECORDS OF JUVENILES TRIED AS ADULTS.—In any case in which a juvenile is tried as an adult, access to the record of the offenses of the juvenile shall be made available in the same manner as is applicable to adult defendants.

(g) FINGERPRINTS AND PHOTOGRAPHS.—

(1) IN GENERAL.—In any case in which a juvenile is proceeded against in a district court of the United States under section 5032, that juvenile shall be fingerprinted and photographed.

(2) AVAILABILITY OF FINGERPRINTS AND PHOTOGRAPHS.—Fingerprints and photographs of a juvenile—

(A) who is prosecuted as an adult, shall be made available in the same manner as is applicable to an adult defendant; and

(B) who is not prosecuted as an adult, shall be made available only as provided in subsection (a).

(3) INFORMATION TO FEDERAL BUREAU OF INVESTIGATION.—

(A) IN GENERAL.—The court shall transmit to the Federal Bureau of Information the information described in subparagraph (B), in any case in which a juvenile proceeded against in a district court of the United States under section 5032 is found guilty—

(i) in the case of a juvenile not prosecuted as an adult, of any offense that is a crime of violence or an act that would be a felony if committed by an adult; or

(ii) in the case of a juvenile prosecuted as an adult, of any offense.

(B) Information.—The information described in this subparagraph is—

(i) the information concerning an adjudication referred to in subparagraph , including the name of the juvenile involved, the date of the adjudication, the court, the offense involved, and the sentence; and

(ii) as appropriate, a notation as to whether the matters covered in the information under clause (i) involved a juvenile tried as an adult or were juvenile adjudications.

[§5039. Commitment

[No juvenile committed, whether pursuant to an adjudication of delinquency or conviction for an offense, to the custody of the Attorney General may be placed or retained in an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges.

[Every juvenile who has been committed shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, counseling, education, training, and medical care including necessary psychiatric, psychological, or other care and treatment.

[Whenever possible, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community.]

§5039. Implementation of a sentence

(a) In General.—Except as otherwise provided in this chapter, the sentence for a juvenile who is adjudicated delinquent or found guilty of an offense under any proceeding in a district court of the United States under section 5032 shall be carried out in the same manner as for an adult defendant.

(b) Sentences of Imprisonment, Probation, and Supervised Release.—Subject to subsection (d), the implementation of a sentence of imprisonment is governed by subchapter C of chapter 229 and, if the sentence includes a term of probation or supervised release, by subchapter A of chapter 229.

(c) Sentences of Fines and Orders of Restitution; Special Assessments.—

(1) In general.—A sentence of a fine, an order of restitution, or a special assessment under section 3013 shall be implemented and collected in the same manner as for an adult defendant.

(2) Prohibition.—The parent, guardian, or custodian of a juvenile sentenced to pay a fine or ordered to pay restitution or a special assessment under section 3013 may not be made liable for such payment by any court.

(d) SEGREGATION OF JUVENILES; CONDITIONS OF CONFINEMENT.—

(1) IN GENERAL.—No juvenile committed for incarceration, whether pursuant to an adjudication of delinquency or conviction for an offense, to the custody of the Attorney General may, before the juvenile attains the age of 18, be placed or retained in any jail or correctional institution in which the juvenile has prohibited physical contact with adult inmate or can engage in sustained oral communication with adult inmates. To the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles.

(2) REQUIREMENTS.—Each juvenile who is committed for incarceration shall be provided with—

(A) adequate food, heat, light, sanitary facilities, bedding, clothing, and recreation; and

(B) as appropriate, counseling, education, training, and medical care (including necessary psychiatric, psychological, or other care or treatment).

(3) COMMITMENT TO FOSTER HOME OR COMMUNITY-BASED FACILITY.—Except in the case of a juvenile who is found guilty of a violent felony or who is adjudicated delinquent for an offense that would be a violent felony if the juvenile had been prosecuted as an adult, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community if that commitment is—

(A) practicable;

(B) in the best interest of the juvenile; and

(C) consistent with the safety of the community.

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TITLE 21—FOOD AND DRUGS

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CHAPTER 13—DRUG ABUSE PREVENTION AND CONTROL

Subchapter I—Control and Enforcement

* * * * * * *

PART D—OFFENSES AND PENALTIES

§ 841. Prohibited acts A

* * * * * * *

(b) PENALTIES.—Except as otherwise provided in section 859, 860, or 861 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(A) In the case of a violation of subsection (a) of this section involving—

* * * * * * *

[(5) Any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

[(A) the amount authorized in accordance with this section;

[(B) the amount authorized in accordance with the provisions of Title 18;

[(C) $500,000 if the defendant is an individual; or

[(D) $1,000,000 if the defendant is other than an individual;

or both.]

(5) Whoever violates subsection (a) of this section by cultivating or manufacturing a controlled substance on any property in whole or in part owned by or leased to the United States or any department or agency thereof shall be subject to twice the maximum punishment otherwise authorized for the offense.

* * * * * * *

§ 859. Distribution to persons under age twenty-one

(a) First Offense.—Except as provided in section 860 of this title, any person at least eighteen years of age who violates section 841(a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age is (except as provided in subsection (b) of this section) subject to (1) twice the maximum punishment authorized by section 841(b) of this title and (2) at least twice any term of supervised release authorized by section 841(b) of this title, for a first offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than [one year] *3 years.* The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marijuana.

(b) Second Offense.—Except as provided in section 860 of this title, any person at least eighteen years of age who violates section 841(a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age after a prior conviction under subsection (a) of this section (or under section 333(b) of this title as in effect prior to May 1, 1971) has become final is subject to (1) three times the maximum punishment authorized by section 841(b) of this title, and (2) at least three times any term of supervised release authorized by section 841(b) of this title, for a second or subsequent offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than [one year] *5 years.* Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

§ 860. Distribution or manufacturing in or near schools and colleges

(a) Penalty.—Any person who violates section 841(a)(1) or section 856 of this title by distributing, processing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b) of this section) subject to (1) twice the maximum punishment authorized by section 841(b) of this title; and (2) at least twice any term of supervised release authorized by section 841(b) of this title for a first offense. A fine up to twice that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title a person shall be sentenced under this subsection to a term of imprisonment of not less than [one year] *3 years*. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marijuana.

(b) SECOND OFFENDERS.—Any person who violates section 841(a)(1) of this title or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, after a prior conviction under subsection (a) of this section has become final is punishable (1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 841(b) of this title for a first offense (2) at least three times any term of supervised release authorized by section 841(b) of this title for a first offense. A fine up to three times that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than [three years] *5 years*. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

* * * * * * *

§861. Employment or use of persons under 18 years of age

(a) UNLAWFUL ACTS.—

* * * * * * *

(b) PENALTY FOR FIRST OFFENSE.—Any person who violates subsection (a) of this section is subject to twice the maximum punishment otherwise authorized and at least twice any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than [one year] *3 years*. ·

(c) PENALTY FOR SUBSEQUENT OFFENSES.—Any person who violates subsection (a) of this section after a prior conviction under subsection (a) of this section has become final, is subject to three times the maximum punishment otherwise authorized and at least three times any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than [one year] *5 years*. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

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TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

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PART III—COURT OFFICERS AND EMPLOYEES

* * * * * * *

CHAPTER 58—UNITED STATES SENTENCING COMMISSION

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§ 994. Duties of the Commission

(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and [consistent with all pertinent provisions of this title and title 18, United States Code,] *consistent with all pertinent provisions of any Federal statute* shall promulgate and distribute to all courts of the United States and to the United States Probation System—

* * * * * * *

(h) The Commission shall assure that the guidelines specify a sentence to a term of imprisonment at or near the maximum term authorized for categories of defendants in which the defendant is eighteen years [old or older] *, or in which the defendant is a juvenile who is tried as an adults,* and—

* * * * * * *

(y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to the Government of any imprisonment, supervised release, or probation sentence that is ordered.

(z)(1) The Commission, not later than 1 year after the date of enactment of the Violent and Repeat Juvenile Offender Act of 1997, by affirmative vote of not less than 4 members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of any Federal statute, shall promulgate and distribute to all courts of the United States and to the United States Probation System—

(A) guidelines, as described in this section, for use by a sentencing court in determining the sentence to be imposed in a criminal case if the defendant committed the offense as a juvenile, and is tried as an adult pursuant to section 5032 of title 18, United States Code; and

(B) guidelines, as described in this section, for use by a court in determining the sentence to be imposed on a juvenile adju-

dicated delinquent pursuant to section 5032 of title 18, United States Code, and sentenced pursuant to a dispositional hearing under section 5037 of title 18, United States Code.

(2) In carrying out this subsection, the Commission shall make the determinations required by subsection (a)(1) and promulgate the policy statements and guidelines required by paragraphs (2) and (3) of subsection (a).

(3) In addition to any other considerations required by this section, the Commission, in promulgating guidelines—

(A) pursuant to paragraph (1)(A), shall presume the appropriateness of adult sentencing provisions, but may make such adjustments to sentence lengths and to provisions governing downward departures from the guidelines as reflect the specific interests and circumstances of juvenile defendants; and

(B) pursuant to paragraph (1)(B), shall ensure that the guidelines—

(i) reflect the broad range of sentencing options available to the court under section 5037 of title 18, United States Code; and

(ii) effectuate a policy of an accountability-based juvenile justice system that provides substantial and appropriate sanctions, which are graduated to reflect the severity or repeated nature of violations, for each delinquent act, and reflect the specific interests and circumstances of juvenile defendants.

(4) The review period specified by subsection (p) shall apply to guidelines promulgated pursuant to this subsection and any future amendments thereto.

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TITLE 42—THE PUBLIC HEALTH AND WELFARE

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CHAPTER 46—JUSTICE SYSTEM IMPROVEMENT

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Subchapter V—Bureau of Justice Assistance Grant Programs

* * * * * * *

PART B—DISCRETIONARY GRANTS

Subpart 1—Grants to Public and Private Entities

* * * * * * *

§ 3760. Purposes

(a) The purpose of this subpart is to provide additional Federal financial assistance to public or private agencies and private nonprofit organizations for purposes of—

[(1) undertaking educational and training programs for criminal justice personnel;**]**

(1) undertaking educational and training programs for—

(A) criminal justice personnel; and

(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;

* * * * * * *

(b) In carrying out this subpart, the Director is authorized to make grants to, or enter into contracts with non-Federal public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in section 3751(b) of this title *and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c).* The Director shall have final authority over all funds awarded under this subpart.

(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

(A) is not of a sufficient size to justify an evaluation; or

(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.

* * * * * * *

Subpart 3—General Requirements

* * * * * * *

§ 3763. Application requirements

(a) CONTENTS.—No grant may be made under this part unless an application has been submitted to the Director in which the applicant—

* * * * * * *

(c) PRIORITY.—In awarding discretionary grants under section 511 to public agencies to undertake law enforcement initiatives relating to gangs, or relating to juveniles who are involved or at risk of involvement in gangs, the Director shall give priority to a public agency that includes in its application a description of strategies or programs of that public agency (either in effect or proposed) that provide cooperation between Federal, State, and local law enforcement authorities, through the use of firearms and ballistics identification systems, to disrupt illegal sale or transfer of firearms to or between juveniles through tracing the sources of guns used in crime that were provided to juveniles.

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Subchapter XII-G—Residential Substance Abuse Treatment for State Prisoners

* * * * * * *

§ 3796ff-1. State applications

(a) IN GENERAL.—

(1) To request a grant under this subchapter the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably required.

* * * * * * *

(e) STATE OFFICE.—The Office designated under section 3757 of this title—

(1) shall prepare the application as required under this section; and

(2) shall administer grant funds received under this subchapter, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

(f) USE OF GRANT AMOUNTS FOR NONRESIDENTIAL AFTERCARE SERVICES.—A State may use amounts received under this part to provide nonresidential substance abuse treatment aftercare services for inmates or former inmates that meet the requirements of subsection (c), if the chief executive officer of the State certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services.

* * * * * * *

Subchapter IX—Definitions

§ 3791. General provisions

(a) DEFINITIONS.—As used in this chapter—

(1) * * *

* * * * * * *

[(3) "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, and the Trust Territory of the Pacific Islands;]

(3) "unit of local government" means—

(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

(B) any law enforcement district or judicial enforcement district that—

(i) is established under applicable State law; and

(ii) has the authority to, in a manner independent of other State entities, establish a budget and impose taxes;

(C) an Indian tribe which performs law enforcement functions, as determined by the Secretary of the Interior; or

(D) for the purposes of assistance eligibility, any agency of the government of the District of Columbia or the Federal Government that performs law enforcement functions in and for—

(i) the District of Columbia; or

(ii) any Trust Territory of the United States;

* * * * * * *

CHAPTER 136—VIOLENT CRIME CONTROL AND LAW ENFORCEMENT

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Subchapter I—Prisons

PART A—VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING INCENTIVE GRANTS

* * * * * * *

§ 13706. Formula for grants

(a) ALLOCATION OF VIOLENT OFFENDER INCARCERATION GRANTS UNDER SECTION 13703 OF THIS TITLE.—

(1) FORMULA ALLOCATION.—

[(b) ALLOCATION OF TRUTH-IN-SENTENCING GRANTS UNDER SECTION 13704 OF THIS TITLE.—The amounts available for grants for section 13704 of this title shall be allocated to each State that meets the requirements of section 13704 of this title in the ratio that the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made bears to the average annual number of part 1 violent crimes reported by States that meet the requirements of section 13704 of this title to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, except that a State may not receive more than 25 percent of the total amount available for such grants.]

(b) FORMULA ALLOCATION.—The amount made available to carry out this section for any fiscal year under section 20104 shall be allocated as follows:

(1) 0.75 percent shall be allocated to each State that meets the requirements of section 20104, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.05 percent.

(2) The amount remaining after the application of paragraph (1) shall be allocated to each State that meets the requirements of section 20104 in the ratio that the average annual number of part 1 violent crimes reported by that State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made bears to the average annual number of part 1 violent crimes reported by States that meet the requirements of section 20104 to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, except that a State may not receive more than 25 percent of the total amount available for those grants.

* * * * * * *

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

(Public Law 93–415; 88 Stat. 1109)

[As Amended Through P.L. 104–18, July 7, 1995]

* * * * * * *

[TITLE I—FINDINGS AND DECLARATION OF PURPOSE

[FINDINGS

[SEC. 101. (a) The Congress hereby finds that—

[(1) juveniles accounted for almost half the arrests for serious crimes in the United States in 1974 and for less than one-third of such arrests in 1983;

[(2) recent trends show an upsurge in arrests of adolescents for murder, assault, and weapon use;

[(3) the small number of youth who commit the most serious and violent offenses are becoming more violent;

[(4) understaffed, overcrowded juvenile courts, prosecutorial and public defender offices, probation services, and correctional facilities and inadequately trained staff in such courts, services, and facilities are not able to provide individualized justice or effective help;

[(5) present juvenile courts, foster and protective care programs, and shelter facilities are inadequate to meet the needs of children, who, because of this failure to provide effective services, may become delinquents;

[(6) existing programs have not adequately responded to the particular problems of the increasing numbers of young people who are addicted to or who abuse alcohol and other drugs, particularly nonopiate or polydrug abusers;

[(7) juvenile delinquency can be reduced through programs designed to keep students in elementary and secondary schools through the prevention of unwarranted and arbitrary suspensions and expulsions;

[(8) State and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency;

[(9) existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency;

[(10) the juvenile justice system should give additional attention to the problem of juveniles who commit serious crimes, with particular attention given to the areas of sentencing, providing resources necessary for informed dispositions, and rehabilitation;

[(11) emphasis should be placed on preventing youth from entering the juvenile justice system to begin with; and

[(12) the incidence of juvenile delinquency can be reduced through public recreation programs and activities designed to provide youth with social skills, enhance self esteem, and encourage the constructive use of discretionary time.

[(b) Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss of human life, personal security, and wasted human resources and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency.

[PURPOSE

[SEC. 102. (a) It is the purpose of this Act—

[(1) to provide for the thorough and ongoing evaluation of all federally assisted juvenile justice and delinquency prevention programs;

[(2) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs;

[(3) to establish training programs for persons, including professionals, paraprofessionals, and volunteers, who work with delinquents or potential delinquents or whose work or activities relate to juvenile delinquency programs;

[(4) to establish a centralized research effort on the problems of juvenile delinquency, including the dissemination of the findings of such research and all data related to juvenile delinquency;

[(5) to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary, and legislative action at the Federal, State, and local level to facilitate the adoption of such standards;

[(6) to assist State and local communities with resources to develop and implement programs to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions;

[(7) to establish a Federal assistance program to deal with the problems of runaway and homeless youth;

[(8) to strengthen families in which juvenile delinquency has been a problem;

[(9) to assist State and local governments in removing juveniles from jails and lockups for adults;

[(10) to assist State and local governments in improving the administration of justice and services for juveniles who enter the system; and

[(11) to assist States and local communities to prevent youth from entering the justice system to begin with.

[(b) It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination (1) to develop and implement effective methods of preventing and reducing juvenile delinquency, including methods with a special focus on preserving and strengthening families so that juveniles may be retained in their homes; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention; (5) to encourage parental involvement in treatment and alternative disposition programs; and (6) to provide for coordination of services between State, local, and community-based agencies and to promote interagency cooperation in providing such services.

[DEFINITIONS

[SEC. 103. For purposes of this Act—

[(1) the term "community based" facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, alcoholism treatment, drug treatment, and other rehabilitative services;

[(2) the term "Federal juvenile delinquency program" means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this Act;

[(3) the term "juvenile delinquency program" means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug and alcohol abuse programs; the improvement of the juvenile justice system; and any program or activity to help prevent juvenile delinquency;

[(4)(A) the term "Bureau of Justice Assistance" means the bureau established by section 401 of the Omnibus Crime Control and Safe Streets Act of 1968;

[(B) the term "Office of Justice Programs" means the office established by section 101 of the Omnibus Crime Control and Safe Streets Act of 1968;

[(C) the term "National Institute of Justice" means the institute established by section 202(a) of the Omnibus Crime Control and Safe Streets Act of 1968; and

[(D) the term "Bureau of Justice Statistics" means the bureau established by section 302(a) of the Omnibus Crime Control and Safe Streets Act of 1968;

[(5) the term "Administrator" means the agency head designated by section 201(b);

[(6) the term "law enforcement and criminal justice" means any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction;

[(7) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

[(8) the term "unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agency may be used to provide the non-Federal share of the cost of programs or projects funded under this title;

[(9) the term "combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a juvenile justice and delinquency prevention plan;

[(10) the term "construction" means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings);

[(11) the term "public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing;

[(12) the term "secure detention facility" means any public or private residential facility which—

[(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

[(B) is used for the temporary placement of any juvenile who is accused of having committed an offense, of any nonoffender, or of any other individual accused of having committed a criminal offense;

[(13) the term "secure correctional facility" means any public or private residential facility which—

[(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

[(B) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense;

[(14) the term "serious crime" means criminal homicide, forcible rape or other sex offenses punishable as a felony, mayhem, kidnapping, aggravated assault, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence, and arson punishable as a felony;

[(15) the term "treatment" includes but is not limited to medical, educational, special education, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public, including services designed to benefit addicts and other users by eliminating their dependence on alcohol or other addictive or nonaddictive drugs or by controlling their dependence and susceptibility to addiction or use;

[(16) the term "valid court order" means a court order given by a juvenile court judge to a juvenile—

[(A) who was brought before the court and made subject to such order;

[(B) who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States;

[(C) with respect to whom an appropriate public agency (other than a court or law enforcement agency), before the issuance of such order—

[(i) reviewed the behavior of such juvenile and the circumstances under which such juvenile was brought before the court and made subject to such order;

[(ii) determined the reasons for the behavior that caused such juvenile to be brought before the court and made subject to such order;

[(iii) determined that all dispositions (including treatment), other than placement in a secure detention facility or a secure correctional facility, have been exhausted or are clearly inappropriate; and

[(iv) submitted to the court a written report stating the results of the review conducted under clause (i) and the determinations made under clauses (ii) and (iii);

[(17) the term "Council" means the Coordinating Council on Juvenile Justice and Delinquency Prevention established in section 206(a)(1);

[(18) the term "Indian tribe" means—

[(A) a federally recognized Indian tribe; or

[(B) an Alaskan Native organization;

[(19) the term "comprehensive and coordinated system of services" means a system that—

[(A) ensures that services and funding for the prevention and treatment of juvenile delinquency are consistent with policy goals of preserving families and providing appropriate services in the least restrictive environment so as to simultaneously protect juveniles and maintain public safety;

[(B) identifies, and intervenes early for the benefit of, young children who are at risk of developing emotional or behavioral problems because of physical or mental stress or abuse, and for the benefit of their families;

[(C) increases interagency collaboration and family involvement in the prevention and treatment of juvenile delinquency; and

[(D) encourages private and public partnerships in the delivery of services for the prevention and treatment of juvenile delinquency;

[(20) the term "gender-specific services" means services designed to address needs unique to the gender of the individual to whom such services are provided;

[(21) the term "home-based alternative services" means services provided to a juvenile in the home of the juvenile as an alternative to incarcerating the juvenile, and includes home detention;

[(22) the term "jail or lockup for adults" means a locked facility that is used by a State, unit of local government, or any law enforcement authority to detain or confine adults—

[(i) pending the filing of a charge of violating a criminal law;

[(ii) awaiting trial on a criminal charge; or

[(iii) convicted of violating a criminal law; and

[(23) the term "nonprofit organization" means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.]

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. FINDINGS.

Congress makes the following findings:

(1) During the past several years, the United States has experienced an alarming increase in arrests of adolescents for murder, assault, and weapons offenses.

(2) In 1994, juveniles accounted for 1 in 5 arrests for violent crimes, including murder, robbery, aggravated assault, and rape, including 514 such arrests per 100,000 juveniles 10 through 17 years of age.

(3) Understaffed and overcrowded juvenile courts, prosecutorial and public defender offices, probation services, and correctional facilities no longer adequately address the changing nature of juvenile crime, protect the public, or correct youth offenders.

(4) The juvenile justice system has proven inadequate to meet the needs of society, because insufficient sanctions are imposed on serious juvenile offenders, and because the needs of children, who may be at risk of becoming delinquents are not being met.

(5) Existing programs and policies have not adequately responded to the particular threat that drugs, alcohol abuse, violence, and gangs pose to the youth of the Nation.

(6) Projected demographic increases in the number of youth offenders require reexamination of current prosecution and incarceration policies for serious violent youth offenders and crime prevention policies.

(7) State and local communities that experience directly the devastating failures of the juvenile justice system require assistance to deal comprehensively with the problems of juvenile delinquency.

(8) Existing Federal programs have not provided the States with necessary flexibility, nor have these programs provided the coordination, resources, and leadership required to meet the crisis of youth violence.

(9) Overlapping and uncoordinated Federal programs have created a multitude of Federal funding streams to State and local governments, that have become a barrier to effective program coordination, responsive public safety initiatives, and the provision of comprehensive services for children and youth.

(10) Violent crime by juveniles constitutes a growing threat to the national welfare that requires an immediate and comprehensive governmental response, combining flexibility and coordinated evaluation.

(11) Limited State and local resources are being wasted complying with the unnecessary Federal mandate that status offenders be deinstitutionalized. Some communities believe that curfews are appropriate for juveniles, and those communities should not be prohibited by the Federal Government from using confinement for status offenses as a means of dealing with delinquent behavior before it becomes criminal conduct.

(12) Limited State and local resources are being wasted complying with the unnecessary Federal mandate that no juvenile be detained or confined in any jail or lockup for adults, because it can be feasible to separate adults and juveniles in 1 facility. This mandate is particularly burdensome for rural communities.

(13) The role of the Federal Government should be to encourage and empower communities to develop and implement policies to protect adequately the public from serious juvenile crime as well as comprehensive programs to reduce risk factors and prevent juvenile delinquency.

(14) A strong partnership among law enforcement, local government, juvenile and family courts, schools, businesses, philanthropic organizations, families, and the religious community, can create a community environment that supports the youth of the Nation in reaching their highest potential and reduces the destructive trend of juvenile crime.

SEC. 102. PURPOSE AND STATEMENT OF POLICY.

(a) IN GENERAL.—The purposes of this Act are to—

(1) protect the public and to hold juveniles accountable for their acts;

(2) empower States and communities to develop and implement comprehensive programs that support families, reduce risk factors, and prevent serious youth crime and juvenile delinquency;

(3) provide for the thorough and ongoing evaluation of all federally funded programs addressing juvenile crime and delinquency;

(4) provide technical assistance to public and private nonprofit entities that protect public safety, administer justice and corrections to delinquent youth, or provide services to youth at risk of delinquency, and their families;

(5) establish a centralized research effort on the problems of youth crime and juvenile delinquency, including the dissemination of the findings of such research and all related data;

(6) establish a Federal assistance program to deal with the problems of runaway and homeless youth;

(7) assist State and local governments in improving the administration of justice for juveniles;

(8) assist the State and local governments in reducing the level of youth violence;

(9) assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

(10) encourage and promote programs designed to keep in school juvenile delinquents expelled or suspended for disciplinary reasons;

(11) assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

(12) assist State and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system;

(13) assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

(14) assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;

(15) provide for the evaluation of federally assisted juvenile crime control programs, and the training necessary for the establishment and operation of such programs;

(16) ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

(17) provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.

(b) STATEMENT OF POLICY.—It is the policy of Congress to provide resources, leadership, and coordination to—

(1) combat youth violence and to prosecute and punish effectively violent juvenile offenders; and

(2) improve the quality of juvenile justice in the United States.

SEC. 103. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Office of Juvenile Crime Control and Accountability.

(2) ADULT INMATE.—The term "adult inmate" means an individual 18 years of age or older arrested and in custody for, awaiting trial on, or convicted of criminal charges or an act of juvenile delinquency committed while a juvenile.

(3) CONSTRUCTION.—The term "construction" means erection of new buildings or acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings).

(4) SUSTAINED ORAL COMMUNICATION.—

(A) IN GENERAL.—The term "sustained oral communication" means oral communication that easily provides an opportunity for an adult inmate orally to threaten a juvenile.

(B) EXCLUSION.—The term does not include any communication that is indirect, intermittent, or incidental, and that does not allow an adult inmate easily to threaten a juvenile orally.

(5) FEDERAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY PROGRAM.—The term "Federal juvenile crime control and juvenile offender accountability program" means any Federal program a primary objective of which is the reduction of the incidence of arrest, the commission of criminal acts or acts of delinquency, violence, the use of alcohol or illegal drugs, or involvement in gangs among juveniles.

(6) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, in-

cluding any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) JUVENILE POPULATION.—The term "juvenile population" means the population of a State under 18 years of age.

(8) OFFICE.—The term "Office" means the Office of Juvenile Crime Control and Accountability established under section 201.

(9) OUTCOME OBJECTIVE.—The term "outcome objective" means an objective that relates to the impact of a program or initiative, that measures the reduction of high risk behaviors, such as incidence of arrest, the commission of criminal acts or acts of delinquency, failure in school, violence, the use of alcohol or illegal drugs, involvement of youth gangs, and teenage pregnancy, among youth in the community.

(10) PROCESS OBJECTIVE.—The term "process objective" means an objective that relates to the manner in which a program or initiative is carried out, including—

(A) an objective relating to the degree to which the program or initiative is reaching the target population; and

(B) an objective relating to the degree to which the program or initiative addresses known risk factors for youth problem behaviors and incorporates activities that inhibit the behaviors and that build on protective factors for youth.

(11) PROHIBITED PHYSICAL CONTACT.—

(A) IN GENERAL.—The term "prohibited physical contact" means direct physical contact that provides an opportunity for an adult inmate physically to harm a juvenile, and includes placing juveniles and adult inmates in the same cell.

(B) EXCLUSION.—The term does not include any contact that is indirect, intermittent, or incidental, and that does not allow an adult inmate physically to harm a juvenile.

(12) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(13) STATE OFFICE.—The term "State office" means an office designated by the chief executive officer of a State to carry out this title, as provided in section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

(14) TREATMENT.—The term "treatment" includes medical and other rehabilitative services designed to protect the public, including any services designed to benefit addicts and other users by—

(A) eliminating their dependence on alcohol or other addictive or nonaddictive drugs; or

(B) controlling or reducing their dependence and susceptibility to addiction or use.

(15) YOUTH.—The term "youth" means an individual who is not less than 6 years of age and not more than 17 years of age.

(16) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means—

(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

(B) any law enforcement district or judicial enforcement district that—

(i) is established under applicable State law; and

(ii) has the authority to, in a manner independent of other State entities, establish a budget and raise revenues;

(C) an Indian tribe which performs law enforcement functions, as determined by the Secretary of the Interior; or

(D) for the purposes of assistance eligibility, any agency of the government of the District of Columbia or the Federal Government that performs law enforcement functions in and for—

(i) the District of Columbia; or

(ii) any Trust Territory of the United States.

TITLE II—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

ESTABLISHMENT OF OFFICE

SEC. 201. (a) There is hereby established an **[**Office of Juvenile Justice and Delinquency Prevention**]** *Office of Juvenile Crime Control and Accountability* (hereinafter in this division referred to as the "Office") within the Department of Justice under the general authority of the Attorney General.

* * * * * * *

(d) DELEGATION AND ASSIGNMENT.—

(1) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided by this title, the Administrator may—

(A) delegate any of the functions of the Administrator, and any function transferred or granted to the Administrator after the date of enactment of the Violent and Repeat Juvenile Offender Act of 1997, to such officers and employees of the Office as the Administrator may designate; and

(B) authorize successive redelegations of such functions as may be necessary or appropriate.

(2) RESPONSIBILITY.—No delegation of functions by the Administrator under this subsection or under any other provision of this title shall relieve the Administrator of responsibility for the administration of such functions.

(e) REORGANIZATION.—The Administrator may allocate or reallocate any function transferred among the officers of the Office, and establish, consolidate, alter, or discontinue such organizational entities in that Office as may be necessary or appropriate.

* * * * * * *

CONCENTRATION OF FEDERAL EFFORTS

[SEC. 204. (a)(1) The Administrator shall develop objectives, priorities, and a long-term plan, and implement overall policy and a strategy to carry out such plan, for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out the functions of the Administrator, the Administrator shall consult with the Council.

[(2)(A) The plan described in paragraph (1) shall—

[(i) contain specific goals and criteria for making grants and contracts, for conducting research, and for carrying out other activities under this title; and

[(ii) provide for coordinating the administration programs and activities under this title with the administration of all other Federal juvenile delinquency programs and activities, including proposals for joint funding to be coordinated by the Administrator.

[(B) The Administrator shall review the plan described in paragraph (1) annually, revise the plan as the Administrator considers appropriate, and publish the plan in the Federal Register—

[(i) not later than 240 days after the date of enactment of this paragraph, in the case of the initial plan required by paragraph (1); and

[(ii) except as provided in clause (i), in the 30-day period ending on October 1 of each year.

[(b) In carrying out the purposes of this Act, the Administrator shall—

[(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile delinquency programs and Federal policies regarding juvenile delinquency;

[(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives the Administrator establishes;

[(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

[(4) implement Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which the Administrator determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

[(5)(A) develop for each fiscal year, and publish annually in the Federal Register for public comment, a proposed comprehensive plan describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and

[(B) taking into consideration comments received during the 45-day period beginning on the date the proposed plan is published, develop and publish a final plan, before December 31 of such fiscal year, describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D;

[(6) provide for the auditing of monitoring systems required under section 223(a)(15) to review the adequacy of such systems; and

[(7) not later than 1 year after the date of the enactment of this paragraph, issue model standards for providing health care to incarcerated juveniles.

[(c) The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide the Administrator with such information and reports, and to conduct such studies and surveys, as the Administrator may deem to be necessary to carry out the purposes of this part.

[(d) The Administrator may delegate any of the functions of the Administrator under this title, to any officer or employee of the Office.

[(e) The Administrator is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

[(h) All functions of the Administrator under this title shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III of this Act.

[(i)(1) The Administrator shall require through appropriate authority each Federal agency which administers a Federal juvenile delinquency program to submit annually to the Council a juvenile delinquency development statement. Such statement shall be in addition to any information, report, study, or survey which the Administrator may require under subsection (c).

[(2) Each juvenile delinquency development statement submitted to the Administrator under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the juvenile delinquency program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile delinquency prevention and treatment goals and policies.

[(3) The Administrator shall review and comment upon each juvenile delinquency development statement transmitted to the Administrator under paragraph (1). Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation which significantly affects juvenile delinquency prevention and treatment.]

SEC. 204. NATIONAL PROGRAM.

(a) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY PLAN.—

(1) IN GENERAL.—The Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out such plan, for all Federal juvenile crime control and juvenile offender accountability programs and activities relating to improving juvenile crime control and the enhancement of accountability by offenders within the juvenile justice system in the United States.

(2) CONTENTS OF PLANS.—

(A) IN GENERAL.—Each plan described in paragraph (1) shall—

(i) contain specific, measurable goals and criteria for reducing the incidence of crime and delinquency among juveniles, improving juvenile crime control, and ensuring accountability by offenders within the juvenile justice system in the United States, and shall include criteria for any discretionary grants and contracts, for conducting research, and for carrying out other activities under this title;

(ii) provide for coordinating the administration of programs and activities under this title with the administration of all other Federal juvenile crime control and juvenile offender accountability programs and activities, including proposals for joint funding to be coordinated by the Administrator;

(iii) provide a detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, the time served by juveniles in custody, and the trends demonstrated by such data;

(iv) provide a description of the activities for which amounts are expended under this title;

(v) provide specific information relating to the attainment of goals set forth in the plan, including specific, measurable standards for assessing progress toward national juvenile crime reduction and juvenile offender accountability goals; and

(vi) provide for the coordination of Federal, State, and local initiatives for the reduction of youth crime and ensuring accountability for juvenile offenders.

(B) SUMMARY AND ANALYSIS.—Each summary and analysis under subparagraph (A)(iii) shall set out the information required by clauses (i), (ii), and (iii) of this subparagraph separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

(i) the types of offenses with which the juveniles are charged;

(ii) the ages of the juveniles;

(iii) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of

prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

(iv) the length of time served by juveniles in custody; and

(v) the number of juveniles who died or who suffered serious bodily injury while in custody and the circumstances under which each juvenile died or suffered such injury.

(C) DEFINITION OF SERIOUS BODILY INJURY.—In this paragraph, the term "serious bodily injury" means bodily injury involving extreme physical pain or the impairment of a function of a bodily member, organ, or mental faculty that requires medical intervention such as surgery, hospitalization, or physical rehabilitation.

(3) ANNUAL REVIEW.—The Administrator shall annually—

(A) review each plan submitted under this subsection;

(B) revise the plans, as the Administrator considers appropriate; and

(C) not later than March 1 of each year, present the plans to the Committees on the Judiciary of the Senate and the House of Representatives.

(b) DUTIES OF ADMINISTRATOR.—In carrying out this title, the Administrator shall—

(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile crime control and juvenile offender accountability programs, and Federal policies regarding juvenile crime and justice, including policies relating to juveniles prosecuted or adjudicated in the Federal courts;

(2) implement and coordinate Federal juvenile crime control and juvenile offender accountability programs and activities among Federal departments and agencies and between such programs and activities and other Federal programs and activities that the Administrator determines may have an important bearing on the success of the entire national juvenile crime control and juvenile offender accountability effort including, in consultation with the Director of the Office of Management and Budget listing annually those programs to be considered Federal juvenile crime control and juvenile accountability programs for the following fiscal year;

(3) provide for the auditing of grants provided pursuant to this title;

(4) collect, prepare, and disseminate useful data regarding the prevention, correction, and control of juvenile crime and delinquency, and issue, not less frequently than once each calendar year, a report on successful programs and juvenile crime reduction methods utilized by States, localities, and private entities;

(5) ensure the performance of comprehensive rigorous independent scientific evaluations, each of which shall—

(A) be independent in nature, and shall employ rigorous and scientifically valid standards and methodologies; and

(B) include measures of outcome and process objectives, such as reductions in juvenile crime, youth gang activity,

youth substance abuse, and other high risk factors, as well as increases in protective factors that reduce the likelihood of delinquency and criminal behavior;

(6) involve consultation with appropriate authorities in the States and with appropriate private entities in the development, review, and revision of the plans required by subsection (a) and in the development of policies relating to juveniles prosecuted or adjudicated in the Federal courts; and

(7) provide technical assistance to the States, units of local government, and private entities in implementing programs funded by grants under this title.

(c) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY BUDGET.—

(1) IN GENERAL.—The Administrator, through the Attorney General shall—

(A) develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities for any Federal juvenile crime control or juvenile offender accountability program, a consolidated National Juvenile Crime Control and Juvenile Offender Accountability Plan budget proposal to implement the National Juvenile Crime Control and Juvenile Offender Accountability Plan; and

(B) transmit such budget proposal to the President and to Congress.

(2) SUBMISSION OF JUVENILE OFFENDER ACCOUNTABILITY BUDGET REQUEST.—

(A) IN GENERAL.—Each Federal Government program manager, agency head, and department head with responsibility for any Federal juvenile crime control or juvenile offender accountability program shall, through the Attorney General, submit the juvenile crime control and juvenile offender accountability budget request of the program, agency, or department to the Administrator at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

(B) TIMELY DEVELOPMENT AND SUBMISSION.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall ensure timely development and submission to the Administrator of juvenile crime control and juvenile offender accountability budget requests transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget.

(3) REVIEW AND CERTIFICATION.—The Administrator shall—

(A) review each juvenile crime control and juvenile offender accountability budget request transmitted to the Administrator under paragraph (2);

(B) certify in writing as to the adequacy of such request in whole or in part to implement the objectives of the Na-

tional Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, include in the certification an initiative or funding level that would make the request adequate; and

(C) notify the program manager, agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (B).

(4) RECORDKEEPING REQUIREMENT.—The Administrator shall maintain records regarding certifications under paragraph (3)(B).

(5) FUNDING REQUESTS.—The Administrator, through the Attorney General, shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.

(6) REPROGRAMMING AND TRANSFER REQUESTS.—

(A) IN GENERAL.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program for which primary implementing authority lies outside the Department of Justice shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated amounts greater than $5,000,000 that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget unless such request is first submitted to the Administrator through the Attorney General and such request has been approved by the Administrator.

(B) APPEAL TO PRESIDENT.—The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program for which primary implementing authority lies outside the Department of Justice may appeal to the President any disapproval by the Administrator of a reprogramming or transfer request.

(7) QUARTERLY REPORTS.—The Administrator shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated amounts for National Juvenile Crime Control and Juvenile Offender Accountability Plan activities.

(8) EXERCISE OF AUTHORITY.—In carrying out the duties under this subsection, the Administrator may exercise, through the Attorney General, authority over those departments, agencies, offices, bureaus, and other components of the Federal Government with responsibility for a juvenile crime control or juvenile offender accountability program, with respect to such program.

(d) INFORMATION, REPORTS, STUDIES, AND SURVEYS FROM OTHER AGENCIES.—The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile crime control and juvenile offender accountability program to provide the Administrator with such information and reports, and to conduct such studies and surveys, as the Administrator determines to be necessary to carry out the purposes of this title.

(e) UTILIZATION OF SERVICES AND FACILITIES OF OTHER AGENCIES; REIMBURSEMENT.—The Administrator may utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(f) COORDINATION OF FUNCTIONS OF ADMINISTRATOR AND SECRETARY OF HEALTH AND HUMAN SERVICES.—All functions of the Administrator shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III.

(g) ANNUAL JUVENILE DELINQUENCY DEVELOPMENT STATEMENTS.—

(1) IN GENERAL.—The Administrator shall require through appropriate authority each Federal agency that administers a Federal juvenile crime control and juvenile offender accountability program to submit annually to the Office a juvenile crime control and juvenile offender accountability development statement. Such statement shall be in addition to any information, report, study, or survey that the Administrator may require under subsection (d).

(2) CONTENTS.—Each development statement submitted to the Administrator under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile crime control and juvenile offender accountability prevention and treatment goals and policies.

(3) REVIEW AND COMMENT.—

(A) IN GENERAL.—The Administrator shall review and comment upon each juvenile crime control and juvenile offender accountability development statement transmitted to the Administrator under paragraph (1).

(B) INCLUSION IN OTHER DOCUMENTATION.—Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation that significantly affects juvenile crime control and juvenile offender accountability.

(h) JOINT FUNDING.—Notwithstanding any other provision of law, if funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced whenever the Administrator finds the program or activity to be ex-

ceptionally effective or for which the Administrator finds exceptional need. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in those regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

JOINT FUNDING

[SEC. 205. Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced whenever the Administrator finds the program or activity to be exceptionally effective or for which the Administrator finds exceptional need. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.]

SEC. 205. JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY INCENTIVE BLOCK GRANTS.

(a) IN GENERAL.—The Administrator shall make, subject to the availability of appropriations, grants to States to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective investigation, prosecution, and punishment (including the imposition of graduated sanctions) of crimes or acts of delinquency committed by juveniles, programs to improve the administration of justice for and ensure accountability by juvenile offenders, and programs to reduce the risk factors (such as truancy, drug or alcohol use, and gang involvement) associated with juvenile crime or delinquency.

(b) USE OF GRANTS.—Grants under this title may be used—

(1) for programs to enhance the identification, investigation, prosecution, and punishment of juvenile offenders, such as—

(A) the utilization of graduated sanctions;

(B) the utilization of short-term confinement of juvenile offenders;

(C) the incarceration of violent juvenile offenders for extended periods of time; and

(D) the hiring of juvenile prosecutors, juvenile public defenders, juvenile judges, juvenile probation officers, and juvenile correctional officers to implement policies to control juvenile crime and ensure accountability of juvenile offenders;

(2) for programs that require juvenile offenders to make restitution to the victims of offenses committed by those juvenile offenders;

(3) for programs that require juvenile offenders to attend and successfully complete school or vocational training as part of a sentence imposed by a court;

(4) for programs that require juvenile offenders who are parents to demonstrate parental responsibility by working and paying child support;

(5) for programs that seek to curb or punish truancy;

(6) for programs designed to collect, record, retain, and disseminate information useful in the identification, prosecution, and sentencing of juvenile offenders, such as criminal history information, fingerprints, DNA tests, and ballistics tests;

(7) for juvenile crime control and prevention programs (such as nighttime curfews, youth organizations, antidrug programs, drug testing of offenders, antigang programs, and after school activities) that include a rigorous, comprehensive evaluation component that measures the decrease in risk factors associated with the juvenile crime and delinquency and employs scientifically valid standards and methodologies;

(8) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and treatment of the most serious juvenile offenses and offenders, popularly known as a "SHOCAP Program" (Serious Habitual Offenders Comprehensive Action Program);

(9) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and disruption of youth gangs;

(10) for the construction or remodeling of short- and long-term facilities for juvenile offenders;

(11) for the development and implementation of training programs for juvenile crime control, for law enforcement officers, judges, prosecutors, probation officers, and other court personnel who are employed by State and local governments, in furtherance of the purposes identified in this section;

(12) to provide literacy and job training to juvenile offenders;

(13) to provide substance abuse treatment for juvenile offenders who have a substance abuse problem;

(14) for units of local government, nonprofit community-based organizations, and colleges or universities to develop and implement juvenile crime and delinquency prevention programs, on the condition that the funds will not be used to supplant or duplicate existing public or nonprofit programs, services, or facilities, especially in rural areas; and

(15) for programs to seek to target, curb, and punish adults who knowingly and intentionally use a juvenile during the commission or attempted commission of a crime, including programs that specifically provide for additional punishments or sentence enhancements for adults who knowingly and intentionally use a juvenile during the commission or attempted commission of a crime.

(c) REQUIREMENTS.—To be eligible to receive an incentive grant under this section, a State shall make reasonable efforts, as certified by the Governor, to ensure that, not later than July 1, 2000—

(1) juveniles age 14 and older may be prosecuted under State law as adults, for an act that would be a serious violent felony (as defined by State law) if committed by an adult;

(2) the State has established graduated sanctions for juvenile offenders, including sanctions for violations of terms of release;

(3) the State, except in the case of a State for any fiscal year through fiscal year 2002 that, for the 5 years preceding the Federal Bureau of Investigation's Uniform Crime Reports for 1996, was among the 5 percent of States with the lowest reported rate per 100,000 persons age 10 to 17 arrested for a violent crime, as reported by the Office of Juvenile Justice and Delinquency Prevention, in its National Reports on Juvenile Offenders and Victims—

(A) requires that juveniles who are arrested for, or charged with, a crime of violence or an act that would be a felony if committed by an adult, are fingerprinted and photographed, and that the fingerprints, photographs, and notation of the arrest of the juvenile are sent to the Federal Bureau of Investigation;

(B) maintains a record relating to the adjudication or disposition that is—

(i) equivalent to the record that would be kept of an adult conviction for that offense;

(ii) retained for a period of time that is equal to the period of time records are kept for adult convictions;

(iii) made available to law enforcement agencies of any jurisdiction;

(iv) made available to officials of a school, school district, or postsecondary school in which the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll, and that such officials are held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, under Federal and State law for handling and disclosing such information;

(v) made available to any court having jurisdiction over such an individual, for the purpose of allowing the court to consider the entire juvenile history of the individual; and

(vi) sent to the Federal Bureau of Investigation;

(4) the State will not detain or confine any juvenile who is alleged to be or determined to be delinquent—

(A) in any institution in which the juvenile has prohibited physical contact with adult inmates; or

(B) for a period of more than 72 hours in any institution in which an adult inmate and a juvenile can engage in sustained oral communication;

(5) the State has established local advisory groups that represent units of local government, and that—

(A) are balanced and include participants in every phase of juvenile crime control, including the local prosecutor, a juvenile judge, a juvenile probation officer, a public defender, the sheriff, the chief of police, and a juvenile correc-

tional officer and other citizens, as appointed by the chief juvenile judge of the unit of local government; and

(B) will conduct a thorough assessment of the case processing in juvenile court from arrest to disposition and punishment and effectuate the necessary changes to make the system more efficient,. to more effectively control juvenile crime, and to ensure the accountability of juvenile offenders;

(6) the State has an established policy of drug testing (including followup testing) juvenile offenders upon their arrest for any offense within an appropriate category of offenses designated by the chief executive officer of the State; and

(7) amounts made available under this part to the States (or units of local government in the State) will not be used to supplant State or local funds (or in the case of Indian tribal governments, to supplant amounts provided by the Bureau of Indian Affairs) but shall be used to increase the amount of funds that would in the absence of amounts received under this part, be made available from a State or local source, or in the case of Indian tribal governments, from amounts provided by the Bureau of Indian Affairs.

(d) VALIDITY OF CERTAIN JUDGMENTS.—Nothing in this section shall require States, in order to qualify for grants under this title, to modify laws concerning the status of any adjudication of juvenile delinquency or judgment of conviction under the law of the State that entered the judgment.

(e) DISTRIBUTION BY STATE OFFICES TO ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—Of amounts made available to the State—

(A) not less than 35 percent shall be designated for programs pursuant to subparagraphs (A), (B), and (C) of subsection (b)(1) and pursuant to subsection (b)(10), except that if the State approves a grant for purposes of construction or remodeling of short- or long-term facilities, that grant shall constitute not more than 50 percent of the estimated construction or remodeling cost and that no funds expended pursuant to this paragraph may be used for the incarceration of adult offenders and no funds expended pursuant to this paragraph may be used for construction, renovation, or expansion of facilities for adult offenders, except that funds may be used to construct juvenile facilities co-located with adult facilities, including separate buildings for juveniles and separate juvenile wings, cells, or areas co-located within an adult jail or lockup;

(B) not less than 10 percent shall be designated for the enhancement of juvenile record collection and dissemination pursuant to subsection (b)(6) and subsection (c)(3);

(C) not less than 15 percent shall be designated for drug testing upon arrest for any offense within the category of offenses designated pursuant to subsection (c)(6), and intensive supervision thereafter pursuant to subsections (b)(7) and (c)(6); and

(D) not less than 75 percent shall be allocated to units of local government within the State, unless the provisions of this subparagraph are waived at the discretion of the Ad-

ministrator with respect to any State in which the services for delinquent or other youth are organized primarily on a statewide basis.

(2) ELIGIBLE APPLICANTS.—Entities eligible to receive amounts distributed by the State office under this title are—

(A) units of local government;

(B) local police or sheriff's departments;

(C) State or local prosecutor's offices;

(D) State or local courts responsible for the administration of justice in cases involving juvenile offenders;

(E) schools;

(F) nonprofit, educational, religious, or community groups active in crime prevention or drug use prevention and treatment; or

(G) any combination of the entities described in subparagraphs (A) through (F).

(f) APPLICATION TO STATE OFFICE.—

(1) IN GENERAL.—To be eligible to receive amounts from the State office, the applicant shall prepare and submit to the State office an application in written form that—

(A) describes the types of activities and services for which the amount will be provided;

(B) includes information indicating the extent to which the activities and services achieve the purposes of the title;

(C) provides for the evaluation component required by section 204(b)(2), which evaluation shall be conducted by an independent entity;

(D) with respect to construction funds, provides an assessment of the need for detention facilities in the relevant jurisdiction; and

(E) provides any other information that the State office may require.

(2) PRIORITY.—In approving applications under this section, the State office should give priority to those applicants demonstrating coordination with, consolidation of, or expansion of existing State or local juvenile crime control and juvenile offender accountability programs.

(g) FUNDING PERIOD.—The State office may award such a grant for a period of not more than 3 years.

(h) RENEWAL OF GRANTS.—The State office may renew grants made under this title. After the initial grant period, in determining whether to renew a grant to an entity to carry out activities, the State office shall give substantial weight to the effectiveness of the activities in achieving reductions in crimes committed by juveniles and in improving the administration of justice to juvenile offenders.

[COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

[SEC. 206. (a)(1) There is hereby established, as an independent organization in the executive branch of the Federal Government a Coordinating Council on Juvenile Justice and Delinquency Prevention composed of the Attorney General, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, the Commissioner of Immigration and Naturalization, such other officers of Federal agencies who hold significant decisionmaking authority as the President may designate, and individuals appointed under paragraph (2).

[(2)(A) Nine members shall be appointed, without regard to political affiliation, to the Council in accordance with this paragraph from among individuals who are practitioners in the field of juvenile justice and who are not officers or employees of the United States.

[(B)(i) Three members shall be appointed by the Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives.

[ii) Three members shall be appointed by the majority leader of the Senate, after consultation with the minority leader of the Senate.

[(iii) Three members shall be appointed by the President.

[(C)(i) Of the members appointed under each of clauses (i), (ii), and (iii)—

[(I) 1 shall be appointed for a term of 1 year;

[(II) 1 shall be appointed for a term of 2 years; and

[(III) 1 shall be appointed for a term of 3 years; as designated at the time of appointment.

[(ii) Except as provided in clause (iii), a vacancy arising during the term for which an appointment is made may be filled only for the remainder of such term.

[(iii) After the expiration of the term for which a member is appointed, such member may continue to serve until a successor is appointed.

[(b) The Attorney General shall serve as Chairman of the Council. The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

[(c)(1) The function of the Council shall be to coordinate all Federal juvenile delinquency programs (in cooperation with State and local juvenile justice programs) all Federal programs and activities that detain or care for unaccompanied juveniles, and all Federal programs relating to missing and exploited children. The Council shall examine how the separate programs can be coordinated among Federal, State, and local governments to better serve at-risk children and juveniles and shall make recommendations to the President and to the Congress at least annually with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities and all Federal programs and activities that detain or care for unaccompanied juveniles. The Council shall review the programs and practices of Federal agencies and report on the degree to which Federal agency funds are used for purposes which are consistent or inconsistent with the mandates of paragraphs (12)(A), (13), and (14) of section 223(a) of this title. The Council shall review, and make recommendations with respect to, any joint funding proposal undertaken by the Office of Juvenile Justice and Delinquency Prevention and any agency represented on the Council. The Council shall review the reasons why Federal agencies take juveniles into custody and shall make recommendations regarding how to improve Federal practices and facilities for holding juveniles in custody.

[(2) In addition to performing their functions as members of the Council, the members appointed under subsection (a)(2) shall collectively—

[(A) make recommendations regarding the development of the objectives, priorities, and the long-term plan, and the implementation of overall policy and the strategy to carry out such plan, referred to in section 204(a)(1); and

[(B) not later than 180 days after the date of the enactment of this paragraph, submit such recommendations to the Administrator, the Chairman of the Committee on Education and Labor of the House of Representatives, and the Chairman of the Committee on the Judiciary of the Senate.

[(d) The Council shall meet at least quarterly.

[(e) The Administrator shall, with the approval of the Council, appoint such personnel or staff support as the Administrator considers necessary to carry out the purposes of this title.

[(f) Members appointed under subsection (a)(2) shall serve without compensation. Members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Council.

[(g) Of sums available to carry out this part, not more than $200,000 shall be available to carry out this section.

[ANNUAL REPORT

[SEC. 207. Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains the following with respect to such fiscal year:

[(1) A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

[(A) the types of offenses with which the juveniles are charged;

[(B) the race and gender of the juveniles;

[(C) the ages of the juveniles;

[(D) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

[(E) the number of juveniles who died while in custody and the circumstances under which they died; and

[(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school.

[(2) A description of the activities for which funds are expended under this part, including the objectives, priorities, accomplishments, and recommendations of the Council.

[(3) A description, based on the most recent data available, of the extent to which each State complies with section 223 and with the plan submitted under such section by the State for such fiscal year.

[(4) A summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replacing such program or activity in other locations.

[(5) A description of selected exemplary delinquency prevention programs for which assistance is provided under this title, with particular attention to community-based juvenile delinquency prevention programs that involve and assist families of juveniles.]

SEC. 206. ALLOCATION OF GRANTS AND AUTHORIZATION OF APPROPRIATIONS; GRANTS TO INDIAN TRIBES.

(a) ALLOCATION OF GRANT AMOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2), amounts made available under section 205 or part B shall be allocated to the States as follows:

(A) 0.75 percent shall be allocated to each State.

(B) Of the total amount remaining after the allocation under subparagraph (A), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this subparagraph as the juvenile population of such State bears to the juvenile population of all the States.

(2) EXCEPTIONS.—

(A) IN GENERAL.—The amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 and not more than $100,000.

(B) REDUCTIONS.—In the case of a State which is exempt from the requirements of sections 205(c)(3), and that elects not to comply with the requirements of such subparagraph, such State's allocation under this paragraph shall be reduced by an amount equal to the amount which such State would be required to designate under section 205(e)(1)(B), or by 10 percent, whichever is less.

(3) REALLOCATION PROHIBITED.—Any amounts appropriated but not allocated due to the ineligibility or nonparticipation of any State shall not be reallocated, but shall revert to the Treasury at the end of the fiscal year for which they were appropriated.

(4) ADMINISTRATIVE COSTS.—A State, unit of local government, or eligible unit that receives funds under this part may not use more than 0.5 percent of those funds to pay for administrative costs.

(5) RELIGIOUS NONDISCRIMINATION.—

(A) IN GENERAL.—The purpose of this paragraph is to allow State and local governments to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in this title, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(B) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—A State or local government exercising its authority to distribute grants to applicants under this title shall ensure that religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in this title, so long as the programs are implemented consistent with the Establishment Clause of the Constitution. Except as provided in subparagraph (J), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization that is or that applies to be a contractor to provide assistance, or that is or that applies to be a contractor to provide assistance, or that accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

(C) RELIGIOUS CHARACTER AND FREEDOM.—

(i) RELIGIOUS ORGANIZATIONS.—A religious organization that participates in a program authorized by this title shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

(ii) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

(I) alter its form of internal governance; or

(II) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursements, funded under a program described in this title.

(D) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—If a beneficiary has an objection to the religious character of the organization or institution from which the beneficiary receives, or would receive, assistance funded under any program described in this title, the State in which the individual resides shall provide such individual (if otherwise eligi-

ble for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider.

(E) EMPLOYMENT PRACTICES.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in this title.

(F) NONDISCRIMINATION AGAINST BENEFICIARIES.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in this title on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

(G) FISCAL ACCOUNTABILITY.—

(i) IN GENERAL.—Subject to clause (ii), any religious organization contracting to provide assistance funded under any program under this title shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

(ii) LIMITED AUDIT.—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

(H) COMPLIANCE.—Any party that seeks to enforce its rights under this paragraph may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

(I) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided through contracts entered into with institutions or organizations to provide services and administer programs under this title shall be expended for sectarian worship, instruction, or proselytization.

(J) PREEMPTION.—Nothing in this paragraph shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

(6) RESTRICTIONS ON THE USE OF AMOUNTS.—

(A) EXPERIMENTATION ON INDIVIDUALS.—

(i) IN GENERAL.—No amounts made available to carry out this title may be used for any biomedical or behavior control experimentation on individuals or any research involving such experimentation.

(ii) DEFINITION OF BEHAVIOR CONTROL.—In this subparagraph, the term 'behavior control'—

(I) means any experimentation or research employing methods that—

(aa) involve a substantial risk of physical or psychological harm to the individual subject; and

(bb) are intended to modify or alter criminal and other antisocial behavior, including aver-

sive conditioning therapy, drug therapy, chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment; and

(II) does not include a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain substance abuse treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

(B) PROHIBITION AGAINST PRIVATE AGENCY USE OF AMOUNTS IN CONSTRUCTION.—No amount made available to any private agency or institution, or to any individual, under this title (either directly or through a State office) may be used for construction.

(C) JOB TRAINING.—Except as provided in section 222(a)(8)(B)(vi) or section 205(b)(12), no amount made available under this title may be used to carry out a youth employment program to provide subsidized employment opportunities, job training activities, or school-to-work activities for participants.

(D) LOBBYING.—

(i) IN GENERAL.—Except as provided in clause (ii), no amount made available under this title to any public or private agency, organization or institution, or to any individual shall be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or other legislation, or any referendum, initiative, constitutional amendment, or any other procedure of Congress, any State legislature, any local council, or any similar governing body.

(ii) EXCEPTION.—This subparagraph does not preclude the use of amounts made available under this title in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

(E) LEGAL ACTION.—No amounts made available under this title to any public or private agency, organization, institution, or to any individual, shall be used in any way directly or indirectly to file an action or otherwise take any legal action against any Federal, State, or local agency, institution, or employee.

(7) PENALTIES.—

(A) IN GENERAL.—If any amounts are used for the purposes prohibited in either subparagraph (D) or (E) of paragraph (6), or in violation of paragraph (5)—

(i) all funding for the agency, organization, institution, or individual at issue shall be immediately discontinued; and

(ii) the agency, organization, institution, or individual using amounts for the purpose prohibited in subparagraph (D) or (E) of paragraph (6), or in violation of paragraph (5), shall be liable for reimbursement of all amounts granted to the individual or entity for the fiscal year for which the amounts were granted.

(B) LIABILITY FOR EXPENSES AND DAMAGES.—In relation to a violation of paragraph (6)(E), the individual filing the lawsuit or responsible for taking the legal action against the Federal, State, or local agency or institution, or individual working for the Government, shall be individually liable for all legal expenses and any other expenses of the Government agency, institution, or individual working for the Government, including damages assessed by the jury against the Government agency, institution, or individual working for the Government, and any punitive damages.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(A) $700,000,000 for fiscal year 1998;

(B) $700,000,000 for fiscal year 1999;

(C) $700,000,000 for fiscal year 2000;

(D) $700,000,000 for fiscal year 2001; and

(E) $700,000,000 for fiscal year 2002.

(2) ALLOCATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated under paragraph (1) for each fiscal year—

(A) $500,000,000 shall be for programs under section 205;

(B) $50,000,000 shall be for programs under section 290; and

(C) $150,000,000 shall be for other programs under this title.

(3) AUTHORIZATION OF APPROPRIATIONS FOR EVALUATION PROGRAMS.—There are authorized to be appropriated for the National Institute for Juvenile Justice and Delinquency Prevention for research, demonstration, and evaluation, $50,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, of which $20,000,000 shall be for evaluation research of primary, secondary, and tertiary juvenile delinquency programs.

(4) SOURCE OF SUMS.—Sums authorized to be appropriated pursuant to this subsection may be derived from the Violent Crime Reduction Trust Fund.

(5) SPECIAL GRANTS.—

(A) INDIAN TRIBES.—

(i) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, from the amounts appropriated pursuant to paragraph (1), for each fiscal year, the Administrator shall reserve an amount equal to the

amount to which all Indian tribes that qualify for a grant under subsection (d) would collectively be entitled, if such tribes were collectively treated as a State to carry out this paragraph.

(ii) GRANTS TO INDIAN TRIBES.—From the amounts reserved under clause (i), the Administrator shall make grants to Indian tribes for programs pursuant to the permissible purposes under section 205 and part B.

(iii) APPLICATIONS.—To be eligible to receive a grant under this paragraph, an Indian tribe shall submit to the Administrator an application in such form and containing such information as the Administrator may by regulation require. The requirements of paragraphs (2), (3), and (5) of section 205(c) shall apply to grants under this paragraph.

(B) TECHNICAL ASSISTANCE.—From the amounts appropriated pursuant to paragraph (1), in each fiscal year the Administrator may reserve 0.1 percent for the purpose of providing technical assistance to recipients of grants under this title.

(6) ADMINISTRATION AND OPERATIONS.—There are authorized to be appropriated for the administration and operation of the Office of Juvenile Crime Control and Accountability such sums as may be necessary for each of fiscal years 1998, 1999, 2000, and 2001.

(7) AVAILABILITY OF FUNDS.—Amounts made available pursuant to this subsection, and allocated pursuant to paragraph (1) in any fiscal year shall remain available until expended.

(c) SYSTEM SUPPORT GRANTS.—Of amounts appropriated pursuant to part B, an amount not to exceed 10 percent of those amounts may be available for use by the Administrator to provide—

(1) training and technical assistance consistent with the purposes authorized under sections 204, 205, and 221;

(2) direct grant awards and other support to develop, test, and demonstrate new approaches to improving the juvenile justice system and reducing and abating delinquent behavior, juvenile crime, and youth violence;

(3) for research and evaluation efforts to discover and test methods and practices to improve the juvenile justice system and reduce and abate delinquent behavior, juvenile crime, and youth violence; and

(4) information, including information on best practices, consistent with purposes authorized under sections 204, 205, and 221.

(d) GRANTS TO INDIAN TRIBES.—

(1) IN GENERAL.—

(A) PLANS.—As part of an application for a grant under this subsection, an Indian tribe shall submit a plan for conducting activities described in section 205(b). The plan shall—

(i) provide evidence that the Indian tribe performs law enforcement functions (as determined by the Secretary of the Interior);

(ii) identify the juvenile justice and delinquency problems and juvenile delinquency prevention needs to be addressed by activities conducted by the Indian tribe in the area under the jurisdiction of the Indian tribe with assistance provided by the grant;

(iii) provide for fiscal control and accounting procedures that—

(I) are necessary to ensure the prudent use, proper disbursement, and accounting of funds received under this subchapter; and

(II) are consistent with the requirements of paragraph (2); and

(iv) contain such other information, and be subject to such additional requirements, as the Administrator may reasonably prescribe to ensure the effectiveness of the grant program under this subpart.

(B) FACTORS FOR CONSIDERATION.—In awarding grants under this section, the Administrator shall consider—

(i) the resources that are available to each applicant that will assist, and be coordinated with, the overall juvenile justice system of the Indian tribe; and

(ii) for each Indian tribe that receives assistance under such a grant—

(I) the relative population of individuals under the age of 18; and

(II) who will be served by the assistance provided by the grant.

(C) GRANT AWARDS.—

(i) IN GENERAL.—

(I) COMPETITIVE AWARDS.—Except as provided in clause (ii), the Administrator shall annually award grants under this section on a competitive basis. The Administrator shall enter into a grant agreement with each grant recipient under this subsection that specifies the terms and conditions of the grant.

(II) PERIOD OF GRANT.—The period of a grant awarded under this subsection shall be 1 year.

(ii) EXCEPTION.—In any case in which the Administrator determines that a grant recipient under this section has performed satisfactorily during the preceding year in accordance with an applicable grant agreement, the Administrator may—

(I) waive the requirement that the recipient be subject to the competitive award process described in clause (i); and

(II) renew the grant for an additional grant period (as specified in clause (i)(II)).

(iii) MODIFICATIONS OF PROCESSES.—The Administrator may prescribe requirements to provide for appropriate modifications to the plan preparation and application process specified in this section for an application for a renewal grant under this subsection.

(2) Reporting requirement.—Each Indian tribe that receives a grant under paragraph (1) is subject to the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

(3) Matching requirement.—Funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of any program or project with a matching requirement funded under this paragraph.

(4) Rule of construction.—Nothing in this subsection may be construed to affect in any manner the jurisdiction of an Indian tribe with respect to land or persons in Alaska.

SEC. 207. ADMINISTRATIVE PROVISIONS.

(a) Authority of Administrator.—The Office shall be administered by the Administrator under the general authority of the Attorney General.

(b) Applicability of Certain Crime Control Provisions.—Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d(c), 3789f(a), 3789f(b), 3789f(c), 3789g(a), 3789g(b), 3789g(d)) shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

(1) any reference to the Office of Justice Programs in such sections shall be considered to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

(2) the term "this title" as it appears in such sections shall be considered to be a reference to this Act.

(c) Applicability of Certain Other Crime Control Provisions.—Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a), 3711(c), and 3787) shall apply with respect to the administration of and compliance with this Act, except that, for purposes of this Act—

(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be considered to be a reference to the Administrator;

(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be considered to be a reference to the Office of Juvenile Crime Control and Accountability; and

(3) the term "this title" as it appears in those sections shall be considered to be a reference to this Act.

(d) Rules, Regulations, and Procedures.—The Administrator may, after appropriate consultation with representatives of States and units of local government, establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

(e) WITHHOLDING.—The Administrator shall initiate such proceedings as the Administrator determines to be appropriate if the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

(1) the program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or

(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title.

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PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

AUTHORITY TO MAKE GRANTS AND CONTRACTS

SEC. 221. (a) The Administrator is authorized to make grants to States and [units of general local government] *units of local government* or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

(b)(1) With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, [units of general local governments] *units of local government* (and combinations thereof), and local private agencies to facilitate compliance with [section 223] *section 222* and implementation of the State plan approved under [section 223(c)] *section 222(c)*.

(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have experience in providing such technical assistance. In providing such technical assistance, the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section [299(c)(1)] *section 222(a)(1)*.

[ALLOCATION

[SEC. 222. (a)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen.

[(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than parts D and E) is less than $75,000,000, then the amount allocated to each State for such fiscal year shall be not less than $325,000, or such greater amount, up to $400,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992 except that the amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000, or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992, each.

[(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) equals or exceeds $75,000,000, then the amount allocated to each State for such fiscal year shall be not less than $400,000, or such greater amount, up to $600,000, as is available to be allocated if appropriations have been enacted and made available to carry out parts D and E in the full amounts authorized by section 299(a) (1) and (3) except that the amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $100,000, or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992 each.

[(3) If, as a result of paragraph (2), the amount allocated to a State for a fiscal year would be less than the amount allocated to such State for fiscal year 1992, then the amounts allocated to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot to such State for the fiscal year the amount allocated to such State for fiscal year 1992.

[(b) If any amount so allocated remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purpose of this part. Any amount so reallocated shall be in addition to the amounts already allocated and available to the State, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands for the same period.

[(c) In accordance with regulations promulgated under this part, a portion of any allocation to any State under this part shall be available to develop a State plan or for other pre-award activities associated with such State plan, and to pay that portion of the expenditures which are necessary for efficient administration, including monitoring, evaluation, and one full-time staff position. Not more than 10 percent of the total annual allocation of such State shall be available for such purposes, except that any amount expended or obligated by such State, or by units of general local government or any combination thereof, from amounts made available under this subsection shall be matched (in an amount equal to any such amount so expended or obligated) by such State, or by such units or combinations, from State or local funds, as the case may be. The State shall make available needed funds for planning and administration to units of general local government or combinations thereof within the State on an equitable basis.

[(d) In accordance with regulations promulgated under this part, 5 per centum of the minimum annual allocation to any State under this part shall be available to assist the advisory group established under section 223(a)(3) of this Act.]

[STATE PLANS

[SEC. 223. (a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. Such plan shall be amended annually to include new programs and challenge activities subsequent to State participation in part E. The State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall—

[(1) designate the State agency described in section 299(c)(1) as the sole agency for supervising the preparation and administration of the plan;

[(2) contain satisfactory evidence that the state agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

[(3) provide for an advisory group, which—

[(A) shall consist of not less than 15 and not more than 33 members appointed by the chief executive officer of the State—

[(i) which members have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice;

[(ii) which members include—

[(I) at least 1 locally elected official representing general purpose local government;

[(II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, counsel for children and youth, and probation workers;

[(III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, mental health, education, special education, recreation, and youth services;

[(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children;

[(V) volunteers who work with delinquents or potential delinquents;

[(VI) youth workers involved with programs that are alternatives to incarceration, including programs providing organized recreation activities;

[(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; and

[(VIII) persons with special experience and competence in addressing problems related to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence;

[(iii) a majority of which members (including the chairperson) shall not be full-time employees of the Federal, State, or local government;

[(iv) at least one-fifth of which members shall be under the age of 24 at the time of appointment; and

[(v) at least 3 members who have been or are currently under the jurisdiction of the juvenile justice system;

[(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

[(C) shall be afforded the opportunity to review and comment, not later than 30 days after their submission to the advisory group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1);

[(D) shall, consistent with this title—

[(i) advise the State agency designated under paragraph (1) and its supervisory board;

[(ii) submit to the chief executive officer and the legislature of the State at least annually recommendations regarding State compliance with the requirements of paragraphs (12), (13), and (14) and with progress relating to challenge activities carried out pursuant to part E; and

[(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and

[(E) may, consistent with this title—

[(i) advise on State supervisory board and local criminal justice advisory board composition;

[(ii) review progress and accomplishments of projects funded under the State plan.

[(4) provide for the active consultation with and participation of units of general local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of local governments, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies or the advisory group;

[(5) unless the provisions of this paragraph are waived at the discretion of the Administrator for any State in which the services for delinquent or other youth are organized primarily on a statewide basis, provide that at least 66⅔ per centum of funds received by the State under section 222, other than funds made available to the state advisory group under section 222(d), shall be expended—

[(A) through programs of units of general local government or combinations thereof, to the extent such programs are consistent with the State plan;

[(B) through programs of local private agencies, to the extent such programs are consistent with the State plan, except that direct funding of any local private agency by a State shall be permitted only if such agency requests such funding after it has applied for and been denied funding by any unit of general local government or combination thereof; and

[(C) to provide funds for programs of Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) and that agree to attempt to comply with the requirements specified in paragraphs (12)(A), (13), and (14), applicable to the detention and confinement of juveniles, an amount that bears the same ratio to the aggregate amount to be expended through programs referred to in subparagraphs (A) and (B) as the population under 18 years of age in the geographical areas in which such tribes perform such functions bears to the State population under 18 years of age.

[(6) provide that the chief executive officer of the unit of general local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure or to a regional planning agency (hereinafter in this part referred to as the "local agency") which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

[(7) provide for an equitable distribution of the assistance received under section 222 within the State;

[(8)(A) provide for (i) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the jurisdiction; (ii) an indication of the manner in which the programs relate to other similar State or local programs which are intended to address the same or similar problems; and (iii) a plan for the concentration of State efforts which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

[(B) contain—

[(i) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services for females; and

[(ii) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

[(C) contain—

[(i) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

[(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

[(D) contain—

[(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

[(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;

[(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, special education, recreation, health, and welfare within the State;

[(10) provide that not less than 75 percent of the funds available to the State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

[(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

[(i) for youth who can remain at home with assistance: home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

[(ii) for youth who need temporary placement: crisis intervention, shelter, and after-care; and

[(iii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

[(B) community-based programs and services to work with—

[(i) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

[(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

[(iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

[(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

[(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;

[(E) educational programs or supportive services for delinquent or other juveniles, provided equitably regardless of sex, race, or family income, designed to—

[(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

[(I) education in settings that promote experiential, individualized learning and exploration of academic and career options;

[(II) assistance in making the transition to the world of work and self-sufficiency;

[(III) alternatives to suspension and expulsion; and

[(IV) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education provides; and

[(ii) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

[(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

[(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

[(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

[(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

[(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

[(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

[(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

[(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

[(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

[(i) a sense of safety and structure;

[(ii) a sense of belonging and membership;

[(iii) a sense of self-worth and social contribution;

[(iv) a sense of independence and control over one's life;

[(v) a sense of closeness in interpersonal relationships; and

[(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

[(M) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

[(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

[(ii) assist in the provision by the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

[(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration; and

[(O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families.

[(11) provide for the development of an adequate research, training, and evaluation capacity within the State;

[(12)(A) provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses (other than an offense that constitutes a violation of a valid court order or a violation of section 922(x) of title 18, United States Code, or a similar State law)., or alien juveniles in custody, or such nonoffenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities; and

[(B) provide that the State shall submit annual reports to the Administrator containing a review of the progress made by the State to achieve the deinstitutionalization of juveniles described in subparagraph (A) and a review of the progress made by the State to provide that such juveniles, if placed in facilities, are placed in facilities which (i) are the least restrictive alternatives appropriate to the needs of the child and the community; (ii) are in reasonable proximity to the family and the home communities of such juveniles; and (iii) provide the services described in section 103(1);

[(13) provide that juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) shall not be detained or confined in any institution in which they have contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges or with the part-time or full-time security staff (including management) or direct-care staff of a jail or lockup for adults;

[(14) provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1997, promulgate regulations which make exceptions with regard to the detention of juveniles accused of nonstatus offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within twenty-four hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas that are in compliance with paragraph (13) and—

[(A)(i) are outside a Standard Metropolitan Statistical Area; and

[(ii) have no existing acceptable alternative placement available;

[(B) are located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within 24 hours, so that a brief (not to exceed 48 hours) delay is excusable; or

[(C) are located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel;

[(15) provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of paragraph (12)(A), paragraph (13), and paragraph (14) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (12)(A) and paragraph (13), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

[(16) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;

[(17) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

[(18) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

[(19) provide that fair and equitable arrangements shall be made to protect the interests of employees affected by assistance under this Act and shall provide for the terms and conditions of such protective arrangements established pursuant to this section, and such protective arrangements shall, to the maximum extent feasible, include, without being limited to, such provisions as may be necessary for—

[(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise;

[(B) the continuation of collective-bargaining rights;

[(C) the protection of individual employees against a worsening of their positions with respect to their employment;

[(D) assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this Act; and

[(E) training or retraining programs;

[(20) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

[(21) provide reasonable assurances that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, and other non-Federal funds;

[(22) provide that the State agency designated under paragraph (1) will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary;

[(23) address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population;

[(24) contain such other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this title; and

[(25) provide an assurance that if the State receives under section 222 for any fiscal year an amount that exceeds 105 percent of the amount the State received under such section for fiscal year 1992, all of such excess shall be expended through or for programs that are part of a comprehensive and coordinated community system of services.

[(b) The State agency designated under subsection (a)(1), after receiving and considering the advice and recommendations of the advisory group referred to in subsection (a), shall approve the State plan and any modification thereof prior to submission to the Administrator.

[(c)(1) Subject to paragraph (2), the Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

[(2) Failure to achieve compliance with the subsection (a)(12)(A) requirement within the 3-year time limitation shall terminate any State's eligibility for funding under this part for a fiscal year beginning before January 1, 1993, unless the Administrator determines that the State is in substantial compliance with the requirement, through achievement of deinstitutionalization of not less than 75 percent of such juveniles or through removal of 100 percent of such juveniles from secure correctional facilities, and has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time not exceeding 2 additional years.

[(3) If a State fails to comply with the requirements of subsection (a), (12)(A), (13), (14), or (23) in any fiscal year beginning after January 1, 1993—

[(A) subject to subparagraph (B), the amount allotted under section 222 to the State for that fiscal year shall be reduced by 25 percent for each such paragraph with respect to which noncompliance occurs; and

[(B) the State shall be ineligible to receive any allotment under that section for such fiscal year unless—

[(i) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with section 222 (c) and (d) and with section 223(a)(5)(C)) for that fiscal year only to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

[(ii) the Administrator determines, in the discretion of the Administrator, that the State—

[(I) has achieved substantial compliance with each such paragraph with respect to which the State was not in compliance; and

[(II) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time.

[(d) In the event that any State chooses not to submit a plan, fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing, in accordance with sections 802, 803, and 804 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, determines does not meet the requirements of this section, the Administrator shall endeavor to make that State's allotment under the provisions of section 222(a), excluding funds the Administrator shall make available to satisfy the requirement specified in section 222(d), available to local public and private non-profit agencies within such State for use in carrying out activities of the kinds described in subsection (a) (12)(A), (13), (14) and (23). The Administrator shall make funds which remain available after disbursements are made by the Administrator under the preceding sentence, and any other unobligated funds, available on an equitable basis to those States that have achieved full compliance with the requirements under subsection (a) (12)(A), (13), (14) and (23).]

SEC. 222. STATE PLANS.

(a) In General.—In order to receive formula grants under this part, a State shall submit a plan, developed in consultation with the State Advisory Group established by the State under subsection (b)(2)(A), for carrying out its purposes applicable to a 3-year period. The State shall submit annual performance reports to the Administrator, each of which shall describe progress in implementing pro-

grams contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations that the Administrator shall prescribe, such plan shall—

(1) designate a State agency as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

(3) provide for the active consultation with and participation of units of local government, or combinations thereof, in the development of a State plan that adequately takes into account the needs and requests of local governments, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies, including religious organizations;

(4) provide that the chief executive officer of the unit of local government shall assign responsibility for the preparation and administration of the unit of local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the unit of local government's structure or to a regional planning agency (in this part referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

(5)(A) provide for—

(i) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the jurisdiction;

(ii) an indication of the manner in which the programs relate to other similar State or local programs that are intended to address the same or similar problems; and

(iii) a plan for the concentration of State efforts, which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

(B) contain—

(i) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the

need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

(C) contain—

(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;

(6) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, special education, recreation, health, and welfare within the State;

(7) provide for the development of an adequate research, training, and evaluation capacity within the State;

(8) provide that, of the funds made available to the State pursuant to grants under section 221, whether expended directly by the State, by the unit of local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies—

(A) not less than 40 percent shall be used for programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

(i) implement an accountability-based juvenile justice system that provides substantial and appropriate sanctions, that are graduated to reflect the severity or repeated nature of violations, for each delinquent or criminal act;

(ii) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

(iii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior; and

(B) not less than 35 percent shall be used for—

(i) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

(I) for youth who can remain at home with assistance, home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

(II) for youth who need temporary placement, crisis intervention, shelter, and after-care; and

(III) for youth who need residential placement, a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

(ii) community-based programs and services to work with—

(I) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

(II) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

(III) parents with limited-English speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

(iii) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

(iv) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

(v) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

(vi) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and

provide for learning disabled and other handicapped youth;

(vii) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

(viii) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

(ix) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration; and

(x) programs (including referral to literacy programs and social service programs) to assist families with limited-English speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

(9) provide that the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has prohibited physical contact with adult inmates, or detain or confine any such juvenile for a period of more than 72 hours in any institution in which an adult inmate and a juvenile can engage in sustained oral communication;

(10)(A) provide that juveniles described in subparagraph (B)—

(i) shall not be confined in any jail, lockup, or other facility for adults for more than 24 hours, excluding weekends and holidays;

(ii) shall not be placed in a secure detention facility or secure correctional facility—

(I) if such a juvenile is a dependent, abused, or neglected child, or an alien juvenile in custody;

(II) except juveniles who are runaways may be placed in a secure detention or secure correctional facility for up to 14 days if, following a hearing not later than 24 hours after such a juvenile is taken into custody, excluding weekends and holidays, the court makes a written finding that—

(aa) the behavior of the juvenile constitutes a clear and present danger to the physical or emotional well-being of the youth;

(bb) secure detention is necessary for guarding the safety of the juvenile; and

(cc) the juvenile's detention is for a period that is not longer than necessary to obtain a suitable placement for the juvenile; and

(III) except that juveniles not described in subclause (I) or (II) may be placed in a secure detention or secure correctional facility for up to 72 hours, if, following a hearing not later than 24 hours after the juvenile is

taken into custody, excluding weekends and holidays, the court makes written findings setting forth—

(aa) the reasons the court believes secure detention is necessary; and

(bb) the reasons the court believes other sanctions, placement, or interventions are inadequate; and

(B) juveniles described in this subparagraph are—

(i) juveniles charged with, or who have committed, an offense that would not be criminal if committed by an adult, excluding—

(I) juveniles who are charged with, or who have committed, a violation of section 922(x) of title 18, United States Code, or of a similar State law; and

(II) juveniles who are charged with, or who have committed, a violation of a valid court order; and

(ii) juveniles—

(I) who are not charged with any offense; and

(II) who are—

(aa) aliens; or

(bb) alleged to be dependent, neglected, or abused;

(11) provide assurances that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;

(12) provide assurances that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

(13) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(14) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

(15) provide reasonable assurances that Federal funds made available under this part for any period shall be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and shall in no event replace such State, local, and other non-Federal funds;

(16) provide that the State agency designated under paragraph (1) will, not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the sur-

vey of State and local needs, that the agency considers necessary;

(17) require that the State or each unit of local government that is a recipient of amounts under this part spends those amounts, to the extent feasible, in proportion to the amount of juvenile crime committed within each relevant sector of the relevant geographic region;

(18) provide assurances that any assistance provided under this act will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any employee who is a current employee at the time that the assistance is provided; and

(19) require that the State or each unit of local government that is a recipient of amounts under this part require that any person convicted of a sexual act or sexual contact involving any person not having attained the age of 18 be tested for the presence of any sexually transmitted disease and that the results of such test be provided to the victim or to the family of the victim as well as to any court or other government agency with primary authority for sentencing the person convicted for the commission of the sexual act or sexual contact (as those terms are defined in paragraphs (2) and (3), respectively, of section 2246 of title 18, United States Code) involving a person not having attained the age of 18.

The failure to comply with paragraph (19) within a reasonable amount of time after the date of enactment of the Violent and Repeat Juvenile Offender Act of 1997 shall result in the loss of 10 percent of the funds to which the State or each unit of local government that is a recipient of amounts under this part is otherwise entitled.

(b) APPROVAL BY STATE AGENCY.—

(1) STATE AGENCY.—The State agency designated under subsection (a)(1) shall approve the State plan and any modification thereof prior to submission of the plan to the Administrator.

(2) STATE ADVISORY GROUP.—

(A) ESTABLISHMENT.—The State advisory group referred to in subsection (a) shall be known as the "State Advisory Group", consisting of representatives from both the private and public sector. The State shall ensure that members of the State Advisory Group shall have experience in the area of juvenile delinquency prevention, the prosecution of juvenile offenders, the treatment of juvenile delinquency, the investigation of juvenile crimes, or the administration of juvenile justice programs. The chairperson of the State Advisory Group shall not be a full-time employee of the Federal Government or the State government.

(B) CONSULTATION.—

(i) IN GENERAL.—The State shall consult with the State Advisory Group established under subparagraph (A) in developing and reviewing the State plan under this section.

(ii) AUTHORITY.—The State Advisory Group shall report to the chief executive officer and the legislature of the State on an annual basis regarding recommenda-

tions related to the State's compliance under this section.

(C) FUNDING.—The State is authorized to make available to the State Advisory Group such sums as may be necessary to assist the State Advisory Group in adequately performing its duties under this paragraph.

(c) APPROVAL BY ADMINISTRATOR; COMPLIANCE WITH STATUTORY REQUIREMENTS.—

(1) IN GENERAL.—The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

(2) REDUCED ALLOCATIONS.—If a State fails to comply with any requirement of subsection (a)(9) in any fiscal year beginning after January 1, 1998, the State shall be ineligible to receive any allocation under that section for such fiscal year unless—

(A) the State agrees to expend all the remaining funds the State receives under this part for that fiscal year only to achieve compliance with such paragraph; or

(B) the Administrator determines, in the discretion of the Administrator, that the State—

(i) has achieved substantial compliance with such paragraph; and

(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time.

* * * * * * *

PART C—NATIONAL PROGRAMS

Subpart I—National Institute for Juvenile Justice and Delinquency Prevention

ESTABLISHMENT OF NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 241. (a) There is hereby established within the [Juvenile Justice and Delinquency Prevention Office] a National Institute for Juvenile Justice and Delinquency Prevention. *Office of Juvenile Crime Control and Accountability*

* * * * * * *

(d) It shall be the purpose of the Institute to provide—

(1) a coordinating center for the collection, preparation, and dissemination of useful data regarding the prevention, treatment, and control of juvenile delinquency; [and]

(2) for the rigorous and independent evaluation of the delinquency and youth violence prevention programs funded under this title;

(3) funding for research and demonstration projects on the nature, causes, and prevention of juvenile violence and juvenile delinquency; and

[(2)] *(4)* appropriate training (including training designed to strengthen and maintain the family unit) for representatives of Federal, State, local law enforcement officers, teachers and special [education personnel recreation] *education personnel, recreation* and [park personnel,] *park personnel,* family counselors, child welfare workers, juvenile judges and judicial personnel, child welfare workers, juvenile judges and judicial personnel, probation personnel, prosecutors and defense attorneys, correctional personnel (including volunteer lay personnel), persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention, treatment, and control of juvenile delinquency.

(e) In addition to the other powers, express and implied, the Institute may—

(1) request any Federal agency to supply such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions;

* * * * * * *

(4) make grants and enter into contracts with public or private agencies, organizations, or individuals for the partial performance of any functions of the Institute; *and*

(5) compensate consultants and members of technical advisory councils who are not in the regular full-time employ of the United States, at a rate now or hereafter payable under section 5376 of title 5 of the United States Code and while away from home, or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the Government service employed intermittently; [*and*].

[(6) assist through training, the advisory groups established pursuant to section 223(a)(3) or comparable public or private citizen groups in nonparticipating States in the accomplishment of their objectives consistent with this title.]

[(f)(1) The Administrator, acting through the Institute, shall provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under section 223(a)(3) to assist such organization to carry out the functions specified in paragraph (2).

[(2) To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

[(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;

[(B) disseminating information, data, standards, advanced techniques, and program models developed through the Institute and through programs funded under section 261;

[(C) reviewing Federal policies regarding juvenile justice and delinquency prevention;

[(D) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

[(E) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.]

(f) DUTIES OF THE INSTITUTE.—

(1) IN GENERAL—The Institute shall make grants and enter into contracts for the purposes of evaluating programs established and funded with State formula grants, research and demonstration projects funded by the National Institute of Juvenile Justice and Delinquency, and discretionary funding of the Office of Juvenile Crime Control and Accountability.

(2) REQUIREMENTS.—EVALUATIONS AND RESEARCH STUDIES FUNDED BY THE INSTITUTE SHALL—

(A) be independent in nature;

(B) be awarded competitively; and

(C) employ rigorous and scientifically recognized standards and methodologies, including peer review by nonapplicants.

* * * * * * *

SEC. 243. (a) The Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention, is authorized to—

(1) conduct, encourage, and coordinate research and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which **[**seek to strengthen and preserve families or which**]** show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

(3) establish or expand programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

[(i)**]** *(A)* encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

[(ii)**]** *(B)* assist in the provision by the Administrator of *best practices of* information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

(4) **[**Encourage**]** *encourage* the development of programs which, in addition to helping youth take responsibility for their behavior, **[**take into consideration life experiences which may have contributed to their delinquency when developing intervention and treatment programs**]** *through control and incarceration, if necessary, provide therapeutic intervention such as providing skills;*

(5) encourage the development and establishment of programs to enhance the States' ability to identify chronic serious and violent juvenile offenders who commit crimes such as rape, murder, firearms offenses, gang-related crimes, violent felonies, and serious drug offenses;

[(5)[3] provide for the evaluation of all juvenile delinquency programs assisted under this title in order to determine the results and the effectiveness of such programs;]

[(6)[3] provide for the evaluation of any other Federal, State, or local juvenile delinquency program;]

[(7)[3] prepare, in cooperation with educational institutions, with Federal, State, and local agencies, and with appropriate individuals and private agencies, such studies as it considers to be necessary with respect to the prevention and treatment of juvenile delinquency and the improvement of the juvenile justice system, including—

> [(A) recommendations designed to promote effective prevention and treatment, particularly by strengthening and maintaining the family unit;
>
> [(B) assessments regarding the role of family violence, sexual abuse or exploitation, media violence, the improper handling of youth placed in one State by another State, the effectiveness of family-centered treatment programs, special education, remedial education, and recreation, and the extent to which youth in the juvenile system are treated differently on the basis of sex, race, or family income and the ramifications of such treatment;
>
> [(C) examinations of the treatment of juveniles processed in the criminal justice system; and
>
> [(D) recommendations as to effective means for deterring involvement in illegal activities or promoting involvement in lawful activities (including the productive use of discretionary time through organized recreational[1] on the part of gangs whose membership is substantially composed of juveniles;]

(6) prepare, in cooperation with education institutions, with Federal, State, and local agencies, and with appropriate individuals and private agencies, such studies as it considers to be necessary with respect to prevention of and intervention with juvenile violence and delinquency and the improvement of juvenile justice systems, including—

> *(A) evaluations of programs and interventions designed to prevent youth violence and juvenile delinquency;*
>
> *(B) assessments and evaluations of the methodological approaches to evaluating the effectiveness of interventions and programs designed to prevent youth violence and juvenile delinquency;*
>
> *(C) studies of the extent, nature, risk, and protective factors, and causes of youth violence and juvenile delinquency;*
>
> *(D) comparisons of youth adjudicated and treated by the juvenile justice system compared to juveniles waived to and adjudicated by the adult criminal justice system (including incarcerated in adult, secure correctional facilities);*

(E) recommendations with respect to effective and ineffective primary, secondary, and tertiary prevention interventions, including for which juveniles, and under what circumstances (including circumstances connected with the staffing of the intervention), prevention efforts are effective and ineffective; and

(F) assessments of risk prediction systems of juveniles used in making decisions regarding pretrial detention;

[(8)**]** *(7)* disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency;

[(9)**]** *(8)* disseminate pertinent data and studies to individuals, agencies, and organizations concerned with the prevention and treatment of juvenile delinquency; *and*

[(10) develop and support model State legislation consistent with the mandates of this title and the standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984;**]**

[(11) support research relating to reducing the excessive proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups; and**]**

[(12) support independent and collaborative research, research training, and consultation on social, psychological, educational, economic, and legal issues affecting children and families;**]**

[(13) support research related to achieving a better understanding of the commission of hate crimes by juveniles and designed to identify educational programs best suited to prevent and reduce the incidence of hate crimes committed by juveniles; and**]**

[(14)**]** *(9)* routinely collect, analyze, compile, publish, and disseminate uniform national statistics concerning—

(A) all aspects of juveniles as victims and offenders;

(B) the processing and treatment, in the juvenile justice system, of juveniles who are status offenders, delinquent, neglected, or abused; and

(C) the processing and treatment of such juveniles who are treated as adults for purposes of the criminal justice system.

(b) The Administrator shall make available to the public—

(1) the results of evaluations and research and demonstration activities referred to in subsection (a)(8); **[**and**]**

(2) the data and studies referred to in **[**subsection (a)(9)**]** *subsection (a)(8)*; that the Administrator is authorized to disseminate under subsection (a)**[**.**]** *; and*

(3) regular reports on the record of each State on objective measurements of youth violence, such as the number, rate, and trend of homicides committed by youths.

[TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS

[SEC. 244. The Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

[(1) provide technical assistance and training assistance to Federal, State, and local governments and to courts, public and private agencies, institutions, and individuals in the planning, establishment, funding, operation, and evaluation of juvenile delinquency programs;

[(2) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are working with or preparing to work with juveniles, juvenile offenders (including juveniles who commit hate crimes), and their families;

[(3) develop, conduct, and provide for seminars, workshops, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges[1] prosecutors and defense attorneys,[2] and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency;

[(4) develop technical training teams to aid in the development of training programs in the States and to assist State and local agencies which work directly with juveniles and juvenile offenders; and

[(5) provide technical assistance and training to assist States and units of general local government to adopt the model standards issued under section 204(b)(7).

[ESTABLISHMENT OF TRAINING PROGRAM

[SEC. 245. (a) The Administrator shall establish within the Institute a training program designed to train enrollees with respect to methods and techniques for the prevention and treatment of juvenile delinquency, including methods and techniques specifically designed to prevent and reduce the incidence of hate crimes committed by juveniles. In carrying out this program the Administrator is authorized to make use of available State and local services, equipment, personnel, facilities, and the like.

[(b) Enrollees in the training program established under this section shall be drawn from law enforcement and correctional personnel (including volunteer lay personnel), teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention and treatment of juvenile delinquency.]

[CURRICULUM FOR TRAINING PROGRAM

[SEC. 246. The Administrator shall design and supervise a curriculum for the training program established by section 245 which shall utilize an interdisciplinary approach with respect to the prevention of juvenile delinquency, the treatment of juvenile delinquents, and the diversion of youths from the juvenile justice system. Such curriculum shall be appropriate to the needs of the enrollees of the training program and shall include training designed to prevent juveniles from committing hate crimes.]

[PARTICIPATION IN TRAINING PROGRAM AND STATE ADVISORY GROUP CONFERENCES

[SEC. 247. (a) Any person seeking to enroll in the training program established under section 245 shall transmit an application to the Administrator, in such form and according to such procedures as the Administrator may prescribe.

[(b) The Administrator shall make the final determination with respect to the admittance of any person to the training program. The Administrator, in making such determination, shall seek to assure that persons admitted to the training program are broadly representative of the categories described in section 245(b).

[(c) While participating as a trainee in the program established under section 245 or while participating in any conference held under section 241(f), and while traveling in connection with such participation, each person so participating shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code. No consultation fee may be paid to such person for such participation.]

[SPECIAL STUDIES AND REPORTS

[SEC. 248. (a) PURSUANT TO 1988 AMENDMENTS.—(1) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study with respect to the juvenile justice system—

[(A) to review—

[(i) conditions in detention and correctional facilities for juveniles; and

[(ii) the extent to which such facilities meet recognized national professional standards; and

[(B) to make recommendations to improve conditions in such facilities.

[(2)(A) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine—

[(i) how juveniles who are American Indians and Alaskan Natives and who are accused of committing offenses on and near Indian reservations and Alaskan Native villages, respectively, are treated under the systems of justice administered by Indian tribes and Alaskan Native organizations, respectively, that perform law enforcement functions;

[(ii) the amount of financial resources (including financial assistance provided by governmental entities) available to Indian tribes and Alaskan Native organizations that perform law enforcement functions, to support community-based alternatives to incarcerating juveniles; and [(iii) the extent to which such tribes and organizations comply with the requirements specified in paragraphs (12)(A), (13), and (14) of section 223(a), applicable to the detention and confinement of juveniles.

[(2)(A) For purposes of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), any contact, subcontract, grant, or subgrant made under paragraph (1) shall be deemed to be a contract, subcontract, grant, or subgrant made for the benefit of Indians.

[(ii) for purposes of section 7(b) of such Act and subparagraph (A) of this paragraph, references to Indians and Indian organizations shall be deemed to include Alaskan Natives and Alaskan Native organizations, respectively.

[(3) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the study conducted under paragraph (1) or (2), as the case may be.

[(b) PURSUANT TO 1992 AMENDMENTS.—(1) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

[(A) conduct a study with respect to juveniles waived to adult court that reviews—

[(i) the frequency and extent to which juveniles have been transferred, certified, or waived to criminal court for prosecution during the 5-year period ending December 1992;

[(ii) conditions of confinement in adult detention and correctional facilities for juveniles waived to adult court; and

[(iii) sentencing patterns, comparing juveniles waived to adult court with juveniles who have committed similar offenses but have not been waived; and

[(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report (including a compilation of State waiver statutes) on the findings made in the study and recommendations to improve conditions for juveniles waived to adult court.

[(2) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

[(A) conduct a study with respect to admissions of juveniles for behavior disorders to private psychiatric hospitals, and to other residential and nonresidential programs that serve juveniles admitted for behavior disorders, that reviews—

[(i) the frequency with which juveniles have been admitted to such hospitals and programs during the 5-year period ending December 1992; and

[(ii) conditions of confinement, the average length of stay, and methods of payment for the residential care of such juveniles; and

[(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve procedural protections and conditions for juveniles with behavior disorders admitted to such hospitals and programs.

[(3) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

[(A) conduct a study of gender bias within State juvenile justice systems that reviews—

[(i) the frequency with which females have been detained for status offenses (such as frequently running away, truancy, and sexual activity), as compared with the frequency with which males have been detained for such offenses during the 5-year period ending December 1992; and

[(ii) the appropriateness of the placement and conditions of confinement for females; and

[(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to combat gender bias in juvenile justice and provide appropriate services for females who enter the juvenile justice system.

[(4) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

[(A) conduct a study of the Native American pass-through grant program authorized under section 223(a)(5)(C) that reviews the cost-effectiveness of the funding formula utilized; and

[(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve the Native American pass-through grant program.

[(5) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

[(A) conduct a study of access to counsel in juvenile court proceedings that reviews—

[(i) the frequency with which and the extent to which juveniles in juvenile court proceedings either have waived counsel or have obtained access to counsel during the 5-year period ending December 1992; and

[(ii) a comparison of access to and the quality of counsel afforded juveniles charged in adult court proceedings with those of juveniles charged in juvenile court proceedings; and

[(B) submit to Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve access to counsel for juveniles in juvenile court proceedings.

[(6)(A) Not later than 180 days after the date of enactment of this subsection, the Administrator shall begin to conduct a study and continue any pending study of the incidence of violence committed by or against juveniles in urban and rural areas in the United States.

[(B) The urban areas shall include—

[(i) the District of Columbia;
[(ii) Los Angeles, California;
[(iii) Milwaukee, Wisconsin;
[(iv) Denver, Colorado;
[(v) Pittsburgh, Pennsylvania;
[(vi) Rochester, New York; and
[(vii) such other cities as the Administrator determines to be appropriate.

[(C) At least one rural area shall be included.

[(D) With respect to each urban and rural area included in the study, the objectives of the study shall be—

[(i) to identify characteristics and patterns of behavior of juveniles who are at risk of becoming violent or victims of homicide;

[(ii) to identify factors particularly indigenous to such area that contribute to violence committed by or against juveniles;

[(iii) to determine the accessibility of firearms, and the use of firearms by or against juveniles;

[(iv) to determine the conditions that cause any increase in violence committed by or against juveniles;

[(v) to identify existing and new diversion, prevention, and control programs to ameliorate such conditions;

[(vi) to improve current systems to prevent and control violence by or against juveniles; and

[(vii) to develop a plan to assist State and local governments to establish viable ways to reduce homicide committed by or against juveniles.

[(E) Not later than 3 years after the date of enactment of this subsection, the Administrator shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate detailing the results of the study addressing each objective specified in subparagraph (D).

[(7)(A) Not later than 1 year after the date of the enactment of this subsection, the Administrator shall—

[(i) conduct a study described in subparagraph (B); and

[(ii) submit to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate the results of the study.

[(B) The study required by subparagraph (A) shall assess—

[(i) the characteristics of juveniles who commit hate crimes, including a profile of such juveniles based on—

[(I) the motives for committing hate crimes;

[(II) the age, sex, race, ethnicity, education level, locality, and family income of such juveniles; and

[(III) whether such juveniles are familiar with publications or organized groups that encourage the commission of hate crimes;

[(ii) the characteristics of hate crimes committed by juveniles, including—

[(I) the types of hate crimes committed;

[(II) the frequency with which institutions and natural persons, separately determined, were the targets of such crimes;

[(III) the number of persons who participated with juveniles in committing such crimes;

[(IV) the types of law enforcement investigations conducted with respect to such crimes;

[(V) the law enforcement proceedings commenced against juveniles for committing hate crimes; and

[(VI) the penalties imposed on such juveniles as a result of such proceedings; and

[(iii) the characteristics of the victims of hate crimes committed by juveniles, including—

[(I) the age, sex, race, ethnicity, locality of the victims and their familiarity with the offender; and

[(II) the motivation behind the attack.]

SEC. 244. REPORT ON STATUS OFFENDERS.

The National Institute of Juvenile Justice and Delinquency Prevention shall conduct a study on the effect of incarceration on status offenders compared to similarly situated individuals who are not placed in secure detention in terms of the continuation of their inappropriate or illegal conduct, delinquency, or future criminal behavior, and evaluating the safety of status offenders placed in secure detention. The study shall be completed not later than September 1, 2002. Copies of the report shall be provided to the Chairmen and Ranking Members of the Committees on the Judiciary of the Senate and House of Representatives.

[Subpart II—Special Emphasis Prevention and Treatment Programs]

AUTHORITY TO MAKE GRANTS AND CONTRACTS

[SEC. 261. (a) Except as provided in subsection (f), the Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals provide for each of the following during each fiscal year:

[(1) Establishing or maintaining community-based alternatives (including home-based treatment programs) to traditional forms of institutionalization of juvenile offenders.

[(2) Establishing or implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents.

[(3) Establishing or supporting advocacy programs and services that encourage the improvement of due process available to juveniles in the juvenile justice system and the quality of legal representation for such juveniles.

[(4) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles affected by the juvenile justice system, including services that provide for the appointment of special advocates by courts for such juveniles.

[(5) Developing or supporting model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency.

[(6) Establishing or implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committeed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.

[(7) Developing or implementing further a coordinated, national law-related education program of—

[(A) delinquency prevention in elementary and secondary schools, and other local sites;

[(B) training for persons responsible for the implementation of law-related education programs; and

[(C) disseminating information regarding model, innovative, law-related education programs to juvenile delinquency programs, including those that are community based, and to law enforcement and criminal justice agencies for activities related to juveniles, that targets juveniles who have had contact with the juvenile justice system or who are likely to have contact with the system.

[(8) Addressing efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional factilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.

[(9) Establishing or supporting programs designed to prevent and to reduce the incidence of hate crimes by juveniles, including—

[(A) model educational programs that are designed to reduce the incidence of hate crimes by means such as—

[(i) addressing the specific prejudicial attitude of each offender;

[(ii) developing an awareness in the offender of the effect of the hate crime on the victim; and

[(iii) educating the offender about the importance of tolerance in our society; and

[(B) sentencing programs that are designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration.

[(b) Except as provided in subsection (f), the Adminstrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, to develop and implement new approaches, techniques, and methods designed to—

[(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other juveniles to help prevent juvenile delinquency;

[(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to assist in identifying learning difficulties (including learning disabilities), to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

[(3) develop, implement, and support, in conjuction with the Secretary of Labor, other public and private agencies, organizations, business, and industry, programs for the employment of juveniles;

[(4) develop and support programs designed to encourage and assist State legislatures to consider and establish policies consistent with this title, both by amending State laws, if necessary, and devoting greater resources to effectuate such policies;

[(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other handicapped juveniles;

[(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

[(A) remove juveniles from jails and lockups for adults;

[(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

[(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved; and

[(7) develop and implement programs, relating to the special education needs of delinquent and other juveniles, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

[(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, and institutions which have experience in dealing with juveniles.

[(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged juveniles, including juveniles who are mentally, emotionally, or physically handicapped.

[(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

[(f) The Administrator shall not make a grant or a contract under subsection (a) or (b) to the Department of Justice or to any administrative unit or other entity that is part of the Department of Justice.]

CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

SEC. [262] *245.* (a) Any agency, institution, or individual desiring to receive a grant, or enter into a contract, under [this part] *section 243* shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

(b) In accordance with guidelines established by the Administrator, each application for assistance under [this part] *section 243* shall—

(1) set forth a program for carrying out one or more of the purposes set forth in [this part] *section 243* and specifically identify each such purpose such program is designed to carry out;

(2) provide that such program shall be administered by or under the supervision of the applicant;

(3) provide for the proper and efficient administration of such program;

(4) provide for regular evaluation of such program; *and*

[(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

[(6) attach a copy of the responses of such State planning agency and local agency to such request;

[(7) provide that regular reports on such program shall be sent to the Administrator and to such State planning agency and local agency; and]

[(8)] *(5)* provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

[(c) In determining whether or not to approve applications for grants and for contracts under [this part] *section 243*, the Administrator shall consider—

[(1) the relative cost and effectiveness of the proposed program in carrying out [this part] *section 243*;

[(2) the extent to which such program will incorporate new or innovative techniques;

[(3) if a State plan has been approved by the Administrator under section 223(c), the extent to which such program meets the objectives and priorities of the State plan, taking into consideration the location and scope of such program;

[(4) the increase in capacity of the public and private agency, institution, or individual involved to provide services to address juvenile delinquency and juvenile delinquency prevention;

[(5) the extent to which such program serves communities which have high rates of juvenile unemployment, school drop-out, and delinquency; and

[(6) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000 located within States which have no city with a population over 250,000.]

(c) FACTORS FOR CONSIDERATION.—In determining whether or not to approve applications for grants and for contracts under this part, the Administrator shall consider—

(1) whether the project uses appropriate and rigorous methodology, including appropriate samples, control groups, psychometrically sound measurement, and appropriate data analysis techniques;

(2) the experience of the principal and co-principal investigators in the area of youth violence and juvenile delinquency;

(3) the protection offered human subjects in the study, including informed consent procedures; and

(4) the cost-effectiveness of the proposed project.

(d)(1)(A) Programs selected for assistance through grants or contracts under [this part] *section 243* [(other than section 241(f))] shall be selected through a competitive process to be established by rule by the Administrator. As part of such a process, the Administrator shall announce in the Federal Register—

(i) the availability of funds for such assistance;

(ii) the general criteria applicable to the selection of applicants to receive such assistance; and

(iii) a description of the procedures applicable to submitting and reviewing applications for such assistance.

(B) The competitive [process described in subparagraph (A) shall not be required if the Administrator makes a written determination waiving the competitive process—

(i) with respect to programs] process with respect to programs to be carried out in areas with respect to which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists[; or].

[(ii) with respect to a particular program described in part C that is uniquely qualified.]

(2)[(A) Programs selected for assistance through grants or contracts under [this part] *section 243* (other than section 241(f)) shall be reviewed before selection, and thereafter as appropriate, through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program]. *(A) Programs selected for assistance through grants and contracts under this part shall be selected after a competitive process that provides potential grantees and contractors with not less than 90 days to submit applications for funds. Applications for funds shall be reviewed through a formal peer review process by qualified scientists with expertise in the fields of criminology, juvenile delinquency, sociology, psychology, research methodology, evaluation research, statistics, and related areas. The peer review process shall conform to the process used by* *the National Institutes of Health, the National Institute of Justice, or the National Science Foundation*

(B) Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation of such process, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the [Committee on Education and Labor] *Committee on the Judiciary* of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

(3) The Administrator, in establishing the process required under paragaphs (1) and (2), shall provide for emergency expedited consideration of the proposed programs if necessary to avoid any delay which would preclude carrying out such programs.

(e) A city shall not be denied assistance under [this part] *section 243* solely on the basis of its population.

(f) Notification of grants and contracts made under [this part] *section 243* (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.

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PART D—GANG-FREE SCHOOLS AND COMMUNITIES; COMMUNITY-BASED GANG INTERVENTION

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Subpart II—Community-Based Gang Intervention

GRANTS

SEC. 282. (a) The Administrator shall make grants to or enter into contracts with public and private nonprofit agencies, organizations, and institutions to carry out programs and activities—

(1) to reduce the participation of juveniles in the illegal activities of gangs;

(2) to develop regional task forces involving State, local, and community-based organizations to coordinate [enforcement, intervention, and treatment efforts for juvenile gang members] *the disruption and prosecution of gangs* and to curtail interstate activities of gangs; and

* * * * * * *

(b) Programs and activities for which grants and contracts are to be made under subsection (a) may include—

(1) the hiring of additional State and local prosecutors, and the establishment and operation of programs, including multijurisdictional task forces, for the disruption and prosecution of gangs and gang members;

[(1)] *(2)* developing within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses;

[(2)] *(3)* providing treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent;

[(3)] *(4)* promoting the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes;

[(4)] *(5)* expanding the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substances analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802) by juveniles, provided through State and local health and social services agencies;

[(5)] *(6)* providing services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity; or

[(6)] *(7)* supporting activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this subpart.

APPROVAL OF APPLICATIONS

SEC. 282A. (a) Any agency, organization, or institution desiring to receive a grant, or to enter into a contract, under this subpart shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.

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(d) PRIORITY.—In approving grants under this part, the Administrator shall give priority to grants for programs conducted pursuant to subsections (a)(2) and (b)(1) of section 282.

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[PART E—STATE CHALLENGE ACTIVITIES

[ESTABLISHMENT OF PROGRAM

[SEC. 285. (a) IN GENERAL.—The Administrator may make a grant to a State that receives an allocation under section 222, in the amount of 10 percent of the amount of the allocation, for each challenge activity in which the State participates for the purpose of funding the activity.

[(b) DEFINITIONS.—For purposes of this part—

[(1) the term "case review system" means a procedure for ensuring that—

[(A) each youth has a case plan, based on the use of objective criteria for determining a youth's danger to the community or himself or herself, that is designed to achieve appropriate placement in the least restrictive and most family-like setting available in close proximity to the parents' home, consistent with the best interests and special needs of the youth;

[(B) the status of each youth is reviewed periodically but not less frequently than once every 3 months, by a court or by administrative review, in order to determine the continuing necessity for and appropriateness of the placement;

[(C) with respect to each youth, procedural safeguards will be applied to ensure that a dispositional hearing is held to consider the future status of each youth under State supervision, in a juvenile or family court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, not later than 12 months after the original placement of the youth and periodically thereafter during the continuation of out-of-home placement; and

[(D) a youth's health, mental health, and education record is reviewed and updated periodically; and

[(2) the term "challenge activity" means a program maintained for 1 of the following purposes:

[(A) Developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system as specified in standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention prior to October 12, 1984.

[(B) Developing and adopting policies and programs to provide access to counsel for all juveniles in the justice system to ensure that juveniles consult with counsel before waiving the right to counsel.

[(C) Increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set of objective criteria for the appropriate placement of juveniles in detention and secure confinement.

[(D) Developing and adopting policies and programs to provide secure settings for the placement of violent juvenile offenders by closing down traditional training schools and replacing them with secure settings with capacities of no more than 50 violent juvenile offenders with ratios of staff to youth great enough to ensure adequate supervision and treatment.

[(E) Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services.

[(F) Establishing and operating, either directly or by contract or arrangement with a public agency or other appropriate private nonprofit organization (other than an agency or organization that is responsible for licensing or certifying out-of-home care services for youth), a State ombudsman office for children, youth, and families to investigate and resolve complaints relating to action, inaction, or decisions of providers of out-of-home care to children and youth (including secure detention and correctional facilities, residential care facilities, public agencies, and social service agencies) that may adversely affect the health, safety, welfare, or rights of resident children and youth.

[(G) Developing and adopting policies and programs designed to remove, where appropriate, status offenders from the jurisdiction of the juvenile court to prevent the placement in secure detention facilities or secure correctional facilities of juveniles who are nonoffenders or who are charged with or who have committed offenses that would not be criminal if committed by an adult.

[(H) Developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion from school.

[(I) Increasing aftercare services for juveniles involved in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, and vocational services and services that preserve and strengthen the families of such juveniles.

[(J) Developing and adopting policies to establish—

[(i) a State administrative structure to coordinate program and fiscal policies for children who have emotional and behavioral problems and their families among the major child serving systems, including schools, social services, health services, mental health services, and the juvenile justice system; and

[(ii) a statewide case review system.]

[PART F—TREATMENT FOR JUVENILE OFFENDERS WHO ARE VICTIMS OF CHILD ABUSE OR NEGLECT

[DEFINITION

[SEC. 287. For the purposes of this part, the term "juvenile" means a person who is less than 18 years of age.

[AUTHORITY TO MAKE GRANTS

[SEC. 287A. The Administrator, in consultation with the Secretary of Health and Human Services, shall make grants to public and nonprofit private organizations to develop, establish, and support projects that—

[(1) provide treatment to juvenile offenders who are victims of child abuse or neglect and to their families so as to reduce the likelihood that the juvenile offenders will commit subsequent violations of law;

[(2) based on the best interests of juvenile offenders who receive treatment for child abuse or neglect, provide transitional services (including individual, group, and family counseling) to juvenile offenders—

[(A) to strengthen the relationships of juvenile offenders with their families and encourage the resolution of intrafamily problems related to the abuse or neglect;

[(B) to facilitate their alternative placement; and

[(C) to prepare juveniles aged 16 years and older to live independently; and

[(3) carry out research (including surveys of existing transitional services, identification of exemplary treatment modalities, and evaluation of treatment and transitional services) provided with grants made under this section.

[ADMINISTRATIVE REQUIREMENTS

[SEC. 287B. The Administrator shall administer this part subject to the requirements of sections 262, 299B, and 299E.

[PRIORITY

[SEC. 287C. In making grants under section 287A, the Administrator—

[(1) shall give priority to applicants that have experience in treating juveniles who are victims of child abuse or neglect; and

[(2) may not disapprove an application solely because the applicant proposes to provide treatment or transitional services to juveniles who are adjudicated to be delinquent for having committed offenses that are not serious crimes.]

PART [G]*E*—MENTORING

PURPOSES

SEC. 288. The purposes of this part are—

(1) to reduce juvenile delinquency and gang participation;

(2) to improve academic performance; and

(3) to reduce the dropout rate,

through the use of mentors for at-risk youth.

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PART [H]*F*—BOOT CAMPS

ESTABLISHMENT OF PROGRAM

SEC. 289. (a) IN GENERAL.—The Administrator may make grants to the appropriate agencies of 1 or more States for the purpose of establishing up to 10 military-style boot camps for juvenile delinquents (referred to as "boot camps").

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PART G—GRANTS TO PROSECUTORS AND COURTS FOR STATE JUVENILE JUSTICE SYSTEMS

SEC. 290. GRANT AUTHORITY.

(a) IN GENERAL.—The Administrator may make grants in accordance with this part to States and units of local government to assist—

(1) State and local prosecutors having jurisdiction over juvenile offender cases; and

(2) State and local courts with juvenile offender dockets.

(b) GRANT PURPOSES.—Subject to subsection (c), grants under this part may be used—

(1) to hire additional prosecutors, together with necessary support staff, for the prosecution of crimes and acts of delinquency committed by juveniles and interstate criminal gang activity, such as illegal drug trafficking;

(2) to provide funding to enable juvenile prosecutors to address drug, gang, and youth violence programs more effectively;

(3) for technology, equipment, and training for prosecutors to—

(A) implement an accountability-based juvenile justice system that provides substantial and appropriate sanctions that are graduated in such manner as to reflect (for each delinquent act or criminal offense) the severity or repeated nature of that act or offense; and

(B) prosecute juvenile violent offenders;

(4) to hire, for juvenile courts or adult courts with juvenile offender dockets, additional judges, probation officers, other necessary court personnel, victims counselors, and public defenders; and

(5) to provide funding to enable juvenile courts and juvenile probation officers to address drug, gang, and youth violence problems more effectively.

(c) RESTRICTION.—Of amounts received by a State or unit of local government under this part, not more than 25 percent may be used for the purposes specified in paragraphs (4) and (5) of subsection (b).

SEC. 290A. APPLICATION.

(a) IN GENERAL.—Each State or unit of local government that applies for a grant under this part shall submit an application to the Administrator, in such form and containing such information as the Administrator may by regulation reasonably require.

(b) REQUIREMENTS.—In submitting an application for a grant under this part, a State or unit of local government shall provide assurances that the State or unit of local government will—

(1) give priority to the prosecution of violent juvenile offenders;

(2) seek and impose substantial and appropriate sanctions for the earliest acts of delinquency or for crimes committed by juveniles, in order to deter future violations;

(3) give adequate consideration to the rights and needs of victims of juvenile offenders; and

(4) use amounts received under this part to supplement (and not supplant) State and local resources.

SEC. 290B. ALLOCATION OF GRANTS.

(a) ALLOCATION OF GRANTS.—

(1) IN GENERAL.—

(A) ALLOCATION TO STATES.—

(i) IN GENERAL.—In awarding grants under this part, the Administrator may award grants provided for a State (including units of local government in that State) an aggregate amount equal to 0.75 percent of the

amount made available to the Administrator by appropriations made pursuant to section 206(b)(2) (reduced by amounts reserved under subsection (b)).

(ii) ADJUSTMENT.—If the Administrator determines that an insufficient number of applications have been submitted for a State, the Administrator may adjust the aggregate amount awarded for a State under clause (i).

(B) REMAINING AMOUNTS.—Of the adjusted amounts available to the Administrator to carry out the grant program under this section referred to in subparagraph (A) that remain after the Administrator distributes the amounts specified in that subparagraph (referred to in this subparagraph as the "remaining amount") the Administrator may award an additional aggregate amount to each State (including any political subdivision thereof) that (or with respect to which a political subdivision thereof) submits an application that is approved by the Administrator under this section that bears the same ratio to the remaining amount as the population of juveniles residing in that State bears to the population of juveniles residing in all States.

(2) EQUITABLE DISTRIBUTION.—The Administrator shall ensure that the distribution of grant amounts made available for a State (including units of local government in that State) under this section is made on an equitable geographic basis, to ensure that—

(A) an equitable amount of available funds are directed to rural areas, including those jurisdictions serving smaller urban and rural communities located along interstate transportation routes that are adversely affected by interstate criminal gang activity, such as illegal drug trafficking; and

(B) the amount allocated to a State is equitably divided between the State, counties, and other units of local government to reflect the relative responsibilities of each such unit of local government.

(b) ADMINISTRATION; TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Administrator may reserve for each fiscal year not more than 2 percent of amounts appropriated pursuant to section 206(b)(2)(B)—

(A) for the administration of this part; and

(B) for the provision of technical assistance to recipients of or applicants for grant awards under this part.

(2) CARRYOVER PROVISION.—Any amounts reserved for any fiscal year pursuant to paragraph (1) that are not expended during that fiscal year shall remain available until expended, except that any amount reserved under this subsection for the succeeding fiscal year from amounts made available by appropriations shall be reduced by an amount equal to the amount that remains available.

(c) AVAILABILITY OF FUNDS.—Any grant amounts awarded under this part shall remain available until expended.

* * * * * * *

[PART I—WHITE HOUSE CONFERENCE ON JUVENILE JUSTICE

[[lacks section heading]

[SEC. 291. (a) IN GENERAL.—The President may call and conduct a National White House Conference on Juvenile Justice (referred to as the "Conference") in accordance with this part.

[(b) PURPOSES OF CONFERENCE.—The purposes of the Conference shall be—

[(1) to increase public awareness of the problems of juvenile offenders and the juvenile justice system;

[(2) to examine the status of minors currently in the juvenile and adult justice systems;

[(3) to examine the increasing number of violent crimes committed by juveniles;

[(4) to examine the growing phenomena of youth gangs, including the number of young women who are involved;

[(5) to assemble persons involved in policies and programs related to juvenile delinquency prevention and juvenile justice enforcement;

[(6) to examine the need for improving services for girls in the juvenile justice system;

[(7) to create a forum in which persons and organizations from diverse regions may share information regarding successes and failures of policy in their juvenile justice and juvenile delinquency prevention programs; and

[(8) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to address the problems of juvenile delinquency and juvenile justice.

[(c) SCHEDULE OF CONFERENCES.—The Conference under this part shall be concluded not later than 18 months after the date of enactment of this part.

[(d) PRIOR STATE AND REGIONAL CONFERENCES.—

[(1) IN GENERAL.—Participants in the Conference and other interested persons and organizations may conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the executive director of the Conference.

[(2) PURPOSE OF STATE AND REGIONAL CONFERENCES.—State and regional conferences and activities shall be directed toward the consideration of the purposes of this part. State conferences shall elect delegates to the National Conferences.

[(3) ADMITTANCE.—No person involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders may be denied admission to a State or regional conference.

[CONFERENCE PARTICIPANTS

[SEC. 291A. (a) IN GENERAL.—The Conference shall bring together persons concerned with issues and programs, both public and private, relating to juvenile justice, and juvenile delinquency prevention.

[(b) SELECTION.—

[(1) STATE CONFERENCES.—Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences.

[(2) DELEGATES.—(A) In addition to delegates elected pursuant to paragraph (1)—

[(i) each Governor may appoint 1 delegate and 1 alternate;

[(ii) the majority leader of the Senate, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

[(iii) the Speaker of the House of Representatives, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

[(iv) the President may appoint 20 delegates and 5 alternates;

[(v) the chief law enforcement official and the chief juvenile corrections official of each State may appoint 1 delegate and 1 alternate each; and

[(vi) the Chairperson of the Juvenile Justice and Delinquency Prevention Advisory Committee of each State, or his or her designate, may appoint 1 delegate.

[(B) Only persons involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders shall be eligible for appointment as a delegate.

[(c) PARTICIPANT EXPENSES.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed from funds appropriated pursuant to this Act.

[(d) NO FEES.—No fee may be imposed on a person who attends a Conference except a registration fee of not to exceed $10.

[STAFF AND EXECUTIVE BRANCH

[SEC. 291B. (a) IN GENERAL.—The President may appoint and compensate an executive director of the National White House Conference on Juvenile Justice and such other directors and personnel for the Conference as the President may deem to be advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates. The staff of the Conference may not exceed 20, including the executive director.

[(b) DETAILEES.—Upon request by the executive director, the heads of the executive and military departments may detail employees to work with the executive director in planning and administering the Conference without regard to section 3341 of title 5, United States Code.

[PLANNING AND ADMINISTRATION OF CONFERENCE

[SEC. 291C. (a) FEDERAL AGENCY SUPPORT.—All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

[(b) DUTIES OF THE EXECUTIVE DIRECTOR.—In carrying out this part, the executive director of the White House Conference on Juvenile Justice—

[(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels authorized by section 291(d);

[(2) may enter into contracts and agreements with public and private agencies and organizations and academic institutions to assist in carrying out this part; and

[(3) shall prepare and provide background materials for use by participants in the Conference and by participants in State and regional conferences.

[REPORTS

[SEC. 291D. (a) IN GENERAL.—Not later than 6 months after the date on which a National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress.

[(b) CONTENTS.—A report described in subsection (a)—

[(1) shall include the findings and recommendations of the Conference and proposals for any legislative action necessary to implement the recommendations of the Conference; and

[(2) shall be made available to the public.

[OVERSIGHT

[SEC. 291E. The Administrator shall report to the Congress annually during the 3-year period following the submission of the final report of a Conference on the status and implementation of the findings and recommendations of the Conference.

[PART I—GENERAL AND ADMINISTRATIVE PROVISIONS

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 299. (a)(1) To carry out the purposes of this title (other than parts D, E, F, G, H, and I) there are authorized to be appropriated $150,000,000 for fiscal years 1993, 1994, 1995, and 1996. Funds appropriated for any fiscal year shall remain available for obligation until expended.

[(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated—

[(i) to carry out subpart 1, $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996; and

[(ii) to carry out subpart 2, $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.

[(B) No funds may be appropriated to carry out part D, E, F, G, or I of this title or title V or VI for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D, E, F, G, or I of this title or title V or VI) for the fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D, E, F, G, or I of this title or title V or VI) for the preceding fiscal year.

[(3) To carry out part E, there are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, and 1996.

[(4)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part F—

[(i) $15,000,000 for fiscal year 1993; and

[(ii) such sums as are necessary for fiscal years 1994, 1995, and 1996.

[(B) No amount is authorized to be appropriated for a fiscal year to carry out part F unless the aggregate amount appropriated to carry out this title for that fiscal year is not less than the aggregate amount appropriated to carry out this title for the preceding fiscal year.

[(C) From the amount appropriated to carry out part F in a fiscal year, the Administrator shall use—

[(i) not less than 85 percent to make grants for treatment and transitional services;

[(ii) not to exceed 10 percent for grants for research; and

[(iii) not to exceed 5 percent for salaries and expenses of the Office of Juvenile Justice and Delinquency Prevention related to administering part F.

[(5)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part G such sums as are necessary for fiscal years 1993, 1994, 1995, and 1996.

[(6)(A) There are authorized to be appropriated to carry out part H such sums as are necessary for fiscal year 1993, to remain available until expended, of which—

[(i) not more than $12,500,000 shall be used to convert any 1 closed military base or to modify any 1 existing military base or other designated facility to a boot camp; and

[(ii) not more than $2,500,000 shall be used to operate any 1 boot camp during a fiscal year.

[(B) No amount is authorized to be appropriated for a fiscal year to carry out part H unless the aggregate amount appropriated to carry out parts A, B, and C of this title for that fiscal year is not less than 120 percent of the aggregate amount appropriated to carry out those parts for fiscal year 1992.

[(7)(A) There are authorized to be appropriated such sums as are necessary for each National Conference and associated State and regional conferences under part I, to remain available until expended.

[(B) New spending authority or authority to enter into contracts under part I shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

[(C) No funds appropriated to carry out this Act shall be made available to carry out part I other than funds appropriated specifically for the purpose of conducting the Conference.

[(D) Any funds remaining unexpended at the termination of the Conference under part I, including submission of the report pursuant to section 291D, shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

[(b) Of such sums as are appropriated to carry out the purposes of this title (other than part D)—

[(1) not to exceed 5 percent shall be available to carry out part A;

[(2) not less than 70 percent shall be available to carry out part B; and

[(3) 25 percent shall be available to carry out part C.

[(c) Notwithstanding any other provision of law, the Administrator shall—

[(1) establish appropriate administrative and supervisory board membership requirements for a State agency responsible for supervising the preparation and administration of the State plan submitted under section 223 and permit the State advisory group appointed under section 223(a)(3) to operate as the supervisory board for such agency, at the discretion of the Governor; and

[(2) approve any appropriate State agency designated by the Governor of the State involved in accordance with paragraph (1).

[(d) No funds appropriated to carry out the purposes of this title may be used for any bio-medical or behavior control experimentation on individuals or any research involving such experimentation. For the purpose of this subsection, the term "behavior control" refers to experimentation or research employing methods which involve a substantial risk of physical or psychological harm to the individual subject and which are intended to modify or alter criminal and other anti-social behavior, including aversive conditioning therapy, drug therapy or chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment. The term does not apply to a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

[(e) Of such sums as are appropriated to carry out section 261(a)(6), not less than 20 percent shall be reserved by the Administrator for each of fiscal years 1993, 1994, 1995, and 1996, for not less than 2 programs that have not received funds under subpart II of part C prior to October 1, 1992, which shall be selected through the application and approval process set forth in section 262.

[ADMINISTRATIVE AUTHORITY

[SEC. 299A. (a) The Office shall be administered by the Administrator under the general authority of the Attorney General.

[(b) Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968, as so designated by the operation of the amendments made by the Justice Assistance Act of 1984, shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

[(1) any reference to the Office of Justice Programs in such sections shall be deemed to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

[(2) the term "this title" as it appears in such sections shall be deemed to be a reference to this Act.

[(c) Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968, as so designated by the operation of the amendments made by the Justice Assistance Act of 1984, shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

[(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be deemed to be a reference to the Administrator;

[(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be deemed to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

[(3) the term "this title" as it appears in such sections shall be deemed to be a reference to this Act.

[(d) The Administrator is authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

[WITHHOLDING

[SEC. 299B. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

[(1) the program or activity for which the grant or contract involved was made has been so changed that it no longer complies with this title; or

[(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title;

the Administrator shall initiate such proceedings as are appropriate.

[USE OF FUNDS

[SEC. 299C. (a) Funds paid pursuant to this title to any public or private agency, organization, or institution, or to any individual (either directly or through a State planning agency) may be used for—

[(1) planning, developing, or operating the program designed to carry out this title; and

[(2) not more than 50 per centum of the cost of the construction of any innovative community-based facility for fewer than 20 persons which, in the judgment of the Administrator, is necessary to carry out this title.

[(b) Except as provided in subsection (a), no funds paid to any public or private agency, or institution or to any individual under this title (either directly or through a State agency or local agency) may be used for construction.

[(c)(1) Funds paid pursuant to section 223(a)(10)(D) and section 261(a)(3) to any public or private agency, organization, or institution or to any individual shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this paragraph shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

[(2) The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 261(a)(3) are used either directly or indirectly in any manner prohibited in this paragraph.

[PAYMENTS

[SEC. 299D. (a) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Administrator may determine.

[(b) Except as provided in the second sentence of section 222(c), financial assistance extended under this title shall be 100 per centum of the approved costs of the program or activity involved.

[(c)(1) In the case of a grant under this title to an Indian tribe, if the Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

[(2) If a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator may waive State liability attributable to the liability of such tribes and may pursue such legal remedies as are necessary.

[(d) If the Administrator determines, on the basis of information available to the Administrator during any fiscal year, that a portion of the funds granted to an applicant under part C for such fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 802 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended from time to time, that portion shall be available for reallocation in an equitable manner to States which comply with the requirements in paragraphs (12)(A) and (13) of section 223(a), under section 261(b)(6).

[CONFIDENTIALITY OF PROGRAM RECORDS

[SEC. 299E. Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this title may not be disclosed without the consent of the service recipient or legally authorized representative, or as may be necessary to carry out this title. Under no circumstances may program reports or findings available for public dissemination contain the actual names of individual service recipients.]

TITLE III—RUNAWAY AND HOMELESS YOUTH

* * * * * * *

PART E—GENERAL PROVISIONS

ASSISTANCE TO POTENTIAL GRANTEES

SEC. 371. The Secretary shall provide informational assistance to potential grantees interested in establishing runaway and homeless youth centers and transitional living youth projects. Such assistance shall consist of information on—

* * * * * * *

LEASE OF SURPLUS FEDERAL FACILITIES FOR USE AS RUNAWAY AND HOMELESS YOUTH CENTERS OR AS TRANSITIONAL LIVING YOUTH SHELTER FACILITIES

SEC. 372. (a) The Secretary may enter into cooperative lease arrangements with States, localities, and nonprofit private agencies to provide for the use of appropriate surplus Federal facilities transferred by the General Services Administration to the Department of Health and Human Services for use as runaway and homeless youth centers or as transitional living youth shelter facilities if the Secretary determines that—

(1) * * *

* * * * * * *

(3) the applicant has consulted with and obtained the approval of the chief executive officer of the [unit of general local government] *unit of local government* in which the facility is located.

* * * * * * *

PART F—ADMINISTRATIVE PROVISIONS

REPORTS

SEC. 381. (a) Not later than 180 days after the end of each fiscal year, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate on the status and accomplishments of the runaway and homeless youth centers which are funded under part A, with particular attention to—

* * * * * * *

AUTHORIZATION OF APPROPRIATIONS

SEC. 385. (1) There are authorized to be appropriated to carry out this title (other than part B and section 344) $75,000,000 for fiscal year [1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996] *1998 and such sums as may be necessary for each of fiscal years 1999, 2000, 2001, and 2002.*

* * * * * * *

(3) After making the allocation required by paragraph (2), the Secretary shall reserve for the purpose of carrying out section 331—

[(A) for fiscal year 1993 not less than $912,500, of which $125,000 shall be available for the acquisition of communications equipment;

[(B) for fiscal year 1994 not less than $826,900;

[(C) for fiscal year 1995 not less than $868,300; and

[(C) for fiscal year 1996 not less than $911,700.]

(A) for fiscal year 1998, not less than $957,285;

(B) for fiscal year 1999, not less than $1,005,150;

(C) for fiscal year 2000, not less than $1,055,406;

(D) for fiscal year 2001, not less than $1,108,177; and

(E) for fiscal year 2002, not less than $1,163,585.

* * * * * * *

(b)(1) Subject to paragraph (2), there are authorized to be appropriated to carry out (B) $25,000,000 for fiscal year [1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996 *1998 and such sums as may be necessary for each of fiscal years 1999, 2000, 2001, and 2002.*

* * * * * * *

(c) There is authorized to be appropriated to carry out section 344 $1,000,000 for each of fiscal years [1993, 1994, 1995, and 1996] *1998, 1999, 2000, 2001, and 2002.*

* * * * * * *

TITLE IV—MISSING CHILDREN

SHORT TITLE

SEC. 401. This title may be cited as the "Missing Children's Assistance Act".

* * * * * * *

DEFINITIONS

SEC. 403. For the purpose of this title—

(1) the term "missing child" means any individual less than 18 years of age whose whereabouts are unknown to such individual's legal custodian if—

* * * * * * *

[(2) the term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.]

(2) the term "Administrator" means the Administrator of the Office of Juvenile Crime Control and Accountability.

DUTIES AND FUNCTIONS OF THE ADMINISTRATOR

Sec. 404. (a) The Administrator shall—

* * * * * * *

(b) [The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—]*The Administrator shall make grants to or enter into contracts with the National Center for Missing and Exploited Children, for purposes of—*

(1)(A) [establish and operate] *providing* a national 24-hour toll-free telephone line by which individuals may report information regarding the location of any missing child, or other child 13 years of age or younger whose whereabouts are unknown to such child's legal custodian, and request information pertaining to procedures necessary to reunite such child with such child's legal custodian; and

(B) coordinating the operation of such telephone line with the operation of the national communications system established under section 313; *and*

(2) [establish and operate] *operating* a national resource center and clearinghouse designed—

(A) to provide to State and local governments, *foreign governments,* public and private nonprofit agencies, and individuals information regarding—

* * * * * * *

(D) to provide technical assistance and training to law enforcement agencies, State and local governments, *foreign governments,* elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of the missing and exploited child case and in locating and recovering missing children[; and].

[(3) periodically]

(c) National Incidence Studies.—The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

(1) periodically conduct national incidence studies to determine for a given year the actual number of children reported missing each year, the number of children who are victims of abduction by strangers, the number of children who are the victims of parental kidnapings, and the number of children who are recovered each year; and

[(4)] *(2)* provide to State and local governments, public and private nonprofit agencies, and individuals information to facilitate the lawful use of school records and birth certificates to identify and locate missing children.

[(c)] *(d)* Nothing contained in this title shall be construed to grant to the Administrator any law enforcement responsibility or supervisory authority over any other Federal agency.

GRANTS

Sec. 405. (a) The Administrator is authorized to make grants to and enter into contracts with *the National Center for Missing and*

Exploited Children and with public agencies or nonprofit private organizations, or combinations thereof, for research, demonstration projects, or service programs designed—

* * * * * * *

AUTHORIZATION OF APPROPRIATIONS

Sec. 408. (a) In General.—To carry out the provisions of this subchapter, there are authorized to be appropriated such sums as may be necessary for fiscal years 1997 through *2002*.

* * * * * * *

IMMIGRATION REFORM AND CONTROL ACT OF 1986

(Public Law 99–603—Nov. 6, 1986)

* * * * * * *

TITLE V—STATE ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

SEC. 501. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS.

(a) Reimbursement of States.—Subject to the amounts provided in advance in appropriation Acts, the Attorney General shall reimburse a State for the costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State *or illegal juvenile alien who has been adjudicated delinquent and committed to a juvenile correctional facility by such State or locality*.

(b) Illegal Aliens Convicted of a Felony.—An illegal alien referred to in subsection (a) is any alien who is any alien convicted of a felony *(including any juvenile alien who has been adjudicated delinquent and has been committed to a correctional facility)* who is in the United States unlawfully and—

* * * * * * *

(f) Juvenile Alien Defined.—In this section, the term "juvenile alien" means an alien (as that term is defined in section 101(a)(3) of the Immigration and Nationality Act) who has been adjudicated delinquent and committed to a correctional facility by a State or locality as a juvenile offender.

HATE CRIMES STATISTICS ACT

(Public Law 101–275—Apr. 23, 1990)

* * * * * * *

(b)(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, for the calendar year 1990 and each of the succeeding 4 calendar years, about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.

* * * * * * *

(5) The Attorney General shall publish and annual summary of the data acquired under this section.

(6) In acquiring data under this section, the Attorney General shall, beginning for calendar year 1998, include data regarding the age of offenders who have committed crimes covered by this section.

* * * * * * *

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

(Public Law 103–322—Sept. 13, 1994)

* * * * * * *

TITLE I—PUBLIC SAFETY AND POLICING

Sec. 10001. Short title.
Sec. 10002. Purposes.
Sec. 10003. Community policing; "Cops on the Beat".

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TITLE III—CRIME PREVENTION

[Subtitle A—Ounce of Prevention Council

[Sec. 30101. Ounce of Prevention Council.
[Sec. 30102. Ounce of prevention grant program.
[Sec. 30103. Definition.
[Sec. 30104. Authorization of appropriations.

[Subtitle B—Local Crime Prevention Block Grant Program

[Sec. 30201. Payments to local governments.
[Sec. 30202. Authorization of appropriations.
[Sec. 30203. Qualification for payment.
[Sec. 30204. Allocation and distribution of funds.
[Sec. 30205. Utilization of private sector.
[Sec. 30206. Public participation.
[Sec. 30207. Administrative provisions.
[Sec. 30208. Definitions.

[Subtitle C—Model Intensive Grant Programs

[Sec. 30301. Grant authorization.
[Sec. 30302. Uses of funds.
[Sec. 30303. Program requirements.
[Sec. 30304. Applications.
[Sec. 30305. Reports.
[Sec. 30306. Definitions.
[Sec. 30307. Authorization of appropriations.]

Subtitle D—Family and Community Endeavor Schools Grant Program

Sec. 30401. Community schools youth services and supervision grant program.
Sec. 30402. Family and community endeavor schools grant program.
Sec. 30403. Authorization of appropriations.

[Subtitle G—Assistance for Delinquent and At-Risk Youth

[Sec. 30701. Grant authority.
[Sec. 30702. Authorization of appropriations.

[Subtitle H—Police Recruitment

[Sec. 30801. Grant authority.
[Sec. 30802. Authorization of appropriations.

[Subtitle J—Local Partnership Act

[Sec. 31001. Establishment of payment program.
[Sec. 31002. Technical amendment.

[Subtitle K—National Community Economic Partnership

[Sec. 31101. Short title.

[CHAPTER 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

[Sec. 31111. Purpose.
[Sec. 31112. Provision of assistance.
[Sec. 31113. Approval of applications.
[Sec. 31114. Availability of lines of credit and use.
[Sec. 31115. Limitations on use of funds.
[Sec. 31116. Program priority for special emphasis programs.

[CHAPTER 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

[Sec. 31121. Community development corporation improvement grants.
[Sec. 31122. Emerging community development corporation revolving loan funds.

[CHAPTER 3—MISCELLANEOUS PROVISIONS

[Sec. 31131. Definitions.
[Sec. 31132. Authorization of appropriations.
[Sec. 31133. Prohibition.

[Subtitle O—Urban Recreation and At-Risk Youth

[Sec. 31501. Purpose of assistance.
[Sec. 31502. Definitions.
[Sec. 31503. Criteria for selection.
[Sec. 31504. Park and recreation action recovery programs.
[Sec. 31505. Miscellaneous and technical amendments.

[Subtitle Q—Community-Based Justice Grants for Prosecutors

[Sec. 31701. Grant authorization.
[Sec. 31702. Use of funds.
[Sec. 31703. Applications.
[Sec. 31704. Allocation of funds; limitations on grants.
[Sec. 31705. Award of grants.
[Sec. 31706. Reports.
[Sec. 31707. Authorization of appropriations.
[Sec. 31708. Definitions.

[Subtitle S—Family Unity Demonstration Project

[Sec. 31901. Short title.
[Sec. 31902. Purpose.
[Sec. 31903. Definitions.
[Sec. 31904. Authorization of appropriations.

[CHAPTER 1—GRANTS TO STATES

[Sec. 31911. Authority to make grants.
[Sec. 31912. Eligibility to receive grants.
[Sec. 31913. Reports.

[CHAPTER 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS

[Sec. 31921. Authority of the Attorney General.
[Sec. 31922. Requirements.]

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[Subtitle X—Gang Resistance Education and Training

[Sec. 32401. Gang Resistance education and training projects.]

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[TITLE XXVII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON COMMISSION ON CRIME PREVENTION AND CONTROL REPEALED]

TITLE III—CRIME PREVENTION

[Subtitle A—Ounce of Prevention Council

[SEC. 30101. OUNCE OF PREVENTION COUNCIL.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—There is established an Ounce of Prevention Council (referred to in this title as the "Council"), the members of which—

[(A) shall include the Attorney General, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of the Interior, and the Director of the Office of National Drug Control Policy; and

[(B) may include other officials of the executive branch as directed by the President.

[(2) CHAIR.—The President shall designate the Chair of the Council from among its members (referred to in this title as the "Chair").

[(3) STAFF.—The Council may employ any necessary staff to carry out its functions, and may delegate any of its functions or powers to a member or members of the Council.

[(b) PROGRAM COORDINATION.—For any program authorized under the Violent Crime Control and Law Enforcement Act of 1994, the Ounce of Prevention Council Chair, only at the request of the Council member with jurisdiction over that program, may coordinate that program, in whole or in part, through the Council.

[(c) ADMINISTRATIVE RESPONSIBILITIES AND POWERS.—In addition to the program coordination provided in subsection (b), the Council shall be responsible for such functions as coordinated planning, development of a comprehensive crime prevention program catalogue, provision of assistance to communities and community-based organizations seeking information regarding crime prevention programs and integrated program service delivery, and development of strategies for program integration and grant simplification. The Council shall have the authority to audit the expenditure of funds received by grantees under programs administered by or coordinated through the Council. In consultation with the Council, the Chair may issue regulations and guidelines to carry out this subtitle and programs administered by or coordinated through the Council.

[SEC. 30102. OUNCE OF PREVENTION GRANT PROGRAM.

[(a) IN GENERAL.—The Council may make grants for—

[(1) summer and after-school (including weekend and holiday) education and recreation programs;

[(2) mentoring, tutoring, and other programs involving participation by adult role models (such as D.A.R.E. America);

[(3) programs assisting and promoting employability and job placement; and

[(4) prevention and treatment programs to reduce substance abuse, child abuse, and adolescent pregnancy, including outreach programs for at-risk families.

[(b) APPLICANTS.—Applicants may be Indian tribal governments, cities, counties, or other municipalities, school boards, colleges and universities, private nonprofit entities, or consortia of eligible applicants. Applicants must show that a planning process has occurred that has involved organizations, institutions, and residents of target areas, including young people, and that there has been cooperation between neighborhood-based entities, municipality-wide bodies, and local private-sector representatives. Applicants must demonstrate the substantial involvement of neighborhood-based entities in the carrying out of the proposed activities. Proposals must demonstrate that a broad base of collaboration and coordination will occur in the implementation of the proposed activities, involving cooperation among youth-serving organizations, schools, health and social service providers, employers, law enforcement professionals, local government, and residents of target areas, including young people. Applications shall be geographically based in particular neighborhoods or sections of municipalities or particular segments of rural areas, and applications shall demonstrate how programs will serve substantial proportions of children and youth resident in the target area with activities designed to have substantial impact on their lives.

[(c) PRIORITY.—In making such grants, the Council shall give preference to coalitions consisting of a broad spectrum of community-based and social service organizations that have a coordinated team approach to reducing gang membership and the effects of substance abuse, and providing alternatives to at-risk youth.

[(d) FEDERAL SHARE.—

[(1) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the applications submitted under subsection (b) for the fiscal year for which the projects receive assistance under this title.

[(2) WAIVER.—The Council may waive the 25 percent matching requirement under paragraph (1) upon making a determination that a waiver is equitable in view of the financial circumstances affecting the ability of the applicant to meet that requirement.

[(3) NON-FEDERAL SHARE.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

[(4) NONSUPPLANTING REQUIREMENT.—Funds made available under this title to a governmental entity shall not be used to supplant State or local funds, or in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this title, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

[(5) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this title.

SEC. 30103. DEFINITION.

[In this subtitle, "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 30104. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this subtitle—

[(1) $1,500,000 for fiscal year 1995;
[(2) $14,700,000 for fiscal year 1996;
[(3) $18,000,000 for fiscal year 1997;
[(4) $18,000,000 for fiscal year 1998;
[(5) $18,900,000 for fiscal year 1999; and
[(6) $18,900,000 for fiscal year 2000.

Subtitle B—Local Crime Prevention Block Grant Program

SEC. 30201. PAYMENTS TO LOCAL GOVERNMENTS.

[(a) Payment and Use.—

[(1) Payment.—The Attorney General, shall pay to each unit of general local government which qualifies for a payment under this subtitle an amount equal to the sum of any amounts allocated to the government under this subtitle for each payment period. The Attorney General shall pay such amount from amounts appropriated under section 30202.

[(2) Use.—Amounts paid to a unit of general local government under this section shall be used by that unit for carrying out one or more of the following purposes:

[(A) Education, training, research, prevention, diversion, treatment, and rehabilitation programs to prevent juvenile violence, juvenile gangs, and the use and sale of illegal drugs by juveniles.

[(B) Programs to prevent crimes against the elderly based on the concepts of the Triad model.

[(C) Programs that prevent young children from becoming gang involved, including the award of grants or contracts to community-based service providers that have a proven track record of providing services to children ages 5 to 18.

[(D) Saturation jobs programs, offered either separately or in conjunction with the services provided for under the Youth Fair Chance Program, that provide employment opportunities leading to permanent unsubsidized employment for disadvantaged young adults 16 through 25 years of age.

[(E) Midnight sports league programs that shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held in conjunction with league sports games at or near the site of the games.

[(F) Supervised sports and recreation programs, including Olympic Youth Development Centers established in cooperation with the United States Olympic Committee, that are offered—

[(i) after school and on weekends and holidays, during the school year; and

[(ii) as daily (or weeklong) full-day programs (to the extent available resources permit) or as part-day programs, during the summer months.

[(G) Prevention and enforcement programs to reduce—

[(i) the formation or continuation of juvenile gangs; and

[(ii) the use and sale of illegal drugs by juveniles.

[(H) Youth anticrime councils to give intermediate and secondary school students a structured forum through which to work with community organizations, law enforcement officials, government and media representatives, and school administrators and faculty to address issues regarding youth and violence.

[(I) Award of grants or contracts to the Boys and Girls Clubs of America, a national nonprofit youth organization, to establish Boys and Girls Clubs in public housing.

[(J) Supervised visitation centers for children who have been removed from their parents and placed outside the home as a result of abuse or neglect or other risk of harm to them and for children whose parents are separated or divorced and the children are at risk because—

[(i) there is documented sexual, physical, or emotional abuse as determined by a court of competent jurisdiction;

[(ii) there is suspected or elevated risk of sexual, physical, or emotional abuse, or there have been threats of parental abduction of the child;

[(iii) due to domestic violence, there is an ongoing risk of harm to a parent or child;

[(iv) a parent is impaired because of substance abuse or mental illness;

[(v) there are allegations that a child is at risk for any of the reasons stated in clauses (i), (ii), (iii), and (iv), pending an investigation of the allegations; or

[(vi) other circumstances, as determined by a court of competent jurisdiction, point to the existence of such a risk.

[(K) Family Outreach Teams which provide a youth worker, a parent worker, and a school-parent organizer to provide training in outreach, mentoring, community organizing and peer counseling and mentoring to locally recruited volunteers in a particular area.

[(L) To establish corridors of safety for senior citizens by increasing the numbers, presence, and watchfulness of law enforcement officers, community groups, and business owners and employees.

[(M) Teams or units involving both specially trained law enforcement professionals and child or family services professionals that on a 24-hour basis respond to or deal with violent incidents in which a child is involved as a perpetrator, witness, or victim.

[(N) Dwelling units to law enforcement officers without charge or at a substantially reduced rent for the purpose of providing greater security for residents of high crime areas.

[(b) TIMING OF PAYMENTS.—The Attorney General shall pay each amount allocated under this subtitle to a unit of general local government for a payment period by the later of 90 days after the date the amount is available or the first day of the payment period if the unit of general local government has provided the Attorney General with the assurances required by section 30203(d).

[(c) ADJUSTMENTS.—

[(1) IN GENERAL.—Subject to paragraph (2), the Attorney General shall adjust a payment under this subtitle to a unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid.

[(2) CONSIDERATIONS.—The Attorney General may increase or decrease under this subsection a payment to a unit of general local government only if the Attorney General determines the need for the increase or decrease, or the unit requests the increase or decrease, within one year after the end of the payment period for which the payment was made.

[(d) RESERVATION FOR ADJUSTMENTS.—The Attorney General may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of general local government in a State if the Attorney General considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

[(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

[(1) REPAYMENT REQUIRED.—A unit of general local government shall repay to the Attorney General, by not later than 15 months after receipt from the Attorney General, any amount that is—

[(A) paid to the unit from amounts appropriated under the authority of this section; and

[(B) not expended by the unit within one year after receipt from the Attorney General.

[(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payments in future payment periods accordingly.

[(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to units of general local government.

[(f) NONSUPPLANTING REQUIREMENT.—Funds made available under this subtitle to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this subtitle, be made available from State or local sources.

SEC. 30202. AUTHORIZATION OF APPROPRIATIONS.

[(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle—

[(1) $75,940,000 for fiscal year 1996;
[(2) $75,940,000 for fiscal year 1997;
[(3) $75,940,000 for fiscal year 1998;
[(4) $75,940,000 for fiscal year 1999; and
[(5) $73,240,000 for fiscal year 2000.

Such sums are to remain available until expended.

[(b) ADMINISTRATIVE COSTS.—Up to 2.5 percent of the amount authorized to be appropriated under subsection (b) is authorized to be appropriated for the period fiscal year 1995 through fiscal year 2000 to be available for administrative costs by the Attorney General in furtherance of the purposes of the program. Such sums are to remain available until expended.

SEC. 30203. QUALIFICATION FOR PAYMENT.

[(a) IN GENERAL.—The Attorney General shall issue regulations establishing procedures under which eligible units of general local government are required to provide notice to the Attorney General of the units' proposed use of assistance under this subtitle.

[(b) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of general local government qualifies for a payment under this subtitle for a payment period only after establishing to the satisfaction of the Attorney General that—

[(1) the government will establish a trust fund in which the government will deposit all payments received under this subtitle;

[(2) the government will use amounts in the trust fund (including interest) during a reasonable period;

[(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

[(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

[(5) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General after consultation with the Comptroller General of the United States. As applicable, amounts received under this subtitle shall be audited in compliance with the Single Audit Act of 1984;

[(6) after reasonable notice to the government, the government will make available to the Attorney General and the Comptroller General of the United States, with the right to inspect, records the Attorney General reasonably requires to review compliance with this subtitle or the Comptroller General of the United States reasonably requires to review compliance and operations;

[(7) the government will make reports the Attorney General reasonably requires, in addition to the annual reports required under this subtitle; and

[(8) the government will spend the funds only for the purposes set forth in section 30201(a)(2).

[(c) Review by Governors.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (d).

[(d) Sanctions for Noncompliance.—

[(1) In general.—If the Attorney General decides that a unit of general local government has not complied substantially with subsection (b) or regulations prescribed under subsection (b), the Attorney General shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Attorney General will withhold additional payments to the government for the current payment period and later payment periods until the Attorney General is satisfied that the government—

[(A) has taken the appropriate corrective action; and

[(B) will comply with subsection (b) and regulations prescribed under subsection (b).

[(2) Notice.—Before giving notice under paragraph (1), the Attorney General shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for comment.

[(3) Payment conditions.—The Attorney General may make a payment to a unit of general local government notified under paragraph (1) only if the Attorney General is satisfied that the government—

[(A) has taken the appropriate corrective action; and

[(B) will comply with subsection (b) and regulations prescribed under subsection (b).

SEC. 30204. ALLOCATION AND DISTRIBUTION OF FUNDS.

[(a) State Distribution.—For each payment period, the Attorney General shall allocate out of the amount appropriated for the period under the authority of section 30202—

[(1) 0.25 percent to each State; and

[(2) of the total amount of funds remaining after allocation under paragraph (1), an amount that is equal to the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

[(b) Local Distribution.—(1) The Attorney General shall allocate among the units of general local government in a State the amount allocated to the State under paragraphs (1) and (2) of subsection (a).

[(2) The Attorney General shall allocate to each unit of general local government an amount which bears the ratio that the number of part 1 violent crimes reported by such unit to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all units in the State in which the unit is located to the Federal Bureau of Investigation for 1993 multiplied by the ratio of the population living in all units in the State in which the unit is located that reported part 1 violent crimes to the Federal Bureau of Investigation for 1993 bears to the population of the State; or if such data are not available for a unit, the ratio that the population of such unit bears to the population of all units in the State in which the unit is located for which data are not available multiplied by the ratio of the population living in units in the State in which the unit is located for which data are not available bears to the population of the State.

[(3) If under paragraph (2) a unit is allotted less than $5,000 for the payment period, the amount allotted shall be transferred to the Governor of the State who shall equitably distribute the allocation to all such units or consortia thereof.

[(4) If there is in a State a unit of general local government that has been incorporated since the date of the collection of the data used by the Attorney General in making allocations pursuant to this section, the Attorney General shall allocate to this newly incorporated local government, out of the amount allocated to the State under this section, an amount bearing the same ratio to the amount allocated to the State as the population of the newly incorporated local government bears to the population of the State. If there is in the State a unit of general local government that has been annexed since the date of the collection of the data used by the Attorney General in making allocations pursuant to this section, the Attorney General shall pay the amount that would have been allocated to this local government to the unit of general local government that annexed it.

[(c) UNAVAILABILITY OF INFORMATION.—For purposes of this section, if data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for such State for the purposes of allocation of any funds under this subtitle.

[SEC. 30205. UTILIZATION OF PRIVATE SECTOR.

[Funds or a portion of funds allocated under this subtitle may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the uses specified under section 30201(a)(2).

[SEC. 30206. PUBLIC PARTICIPATION.

[A unit of general local government expending payments under this subtitle shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

[SEC. 30207. ADMINISTRATIVE PROVISIONS.

[The administrative provisions of part H of the Omnibus Crime Control and Safe Streets Act of 1968, shall apply to the Attorney General for purposes of carrying out this subtitle.

[SEC. 30208. DEFINITIONS.

[For purposes of this subtitle:

[(1) The term "unit of general local government" means—

[(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

[(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.

[(2) The term "payment period" means each 1-year period beginning on October 1 of the years 1995 through 2000.

[(3) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as one State and that, for purposes of section 30204(a), 33 per centum of the amounts allocated shall be allocated to American Samoa, 50 per centum to Guam, and 17 per centum to the Northern Mariana Islands.

[(4) The term "children" means persons who are not younger than 5 and not older than 18 years old.

[(5) The term "part 1 violent crimes" means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

[Subtitle C—Model Intensive Grant Programs

[SEC. 30301. GRANT AUTHORIZATION.

[(a) Establishment.—

[(1) In general.—The Attorney General may award grants to not more than 15 chronic high intensive crime areas to develop comprehensive model crime prevention programs that—

[(A) involve and utilize a broad spectrum of community resources, including nonprofit community organizations, law enforcement organizations, and appropriate State and Federal agencies, including the State educational agencies;

[(B) attempt to relieve conditions that encourage crime; and

[(C) provide meaningful and lasting alternatives to involvement in crime.

[(2) Consultation with the Ounce of Prevention Council.—The Attorney General may consult with the Ounce of Prevention Council in awarding grants under paragraph (1).

[(b) Priority.—In awarding grants under subsection (a), the Attorney General shall give priority to proposals that—

[(1) are innovative in approach to the prevention of crime in a specific area;

[(2) vary in approach to ensure that comparisons of different models may be made; and

[(3) coordinate crime prevention programs funded under this program with other existing Federal programs to address the overall needs of communities that benefit from grants received under this title.

[SEC. 30302. USES OF FUNDS.

[(a) IN GENERAL.—Funds awarded under this subtitle may be used only for purposes described in an approved application. The intent of grants under this subtitle is to fund intensively comprehensive crime prevention programs in chronic high intensive crime areas.

[(b) GUIDELINES.—The Attorney General shall issue and publish in the Federal Register guidelines that describe suggested purposes for which funds under approved programs may be used.

[(c) EQUITABLE DISTRIBUTION OF FUNDS.—In disbursing funds under this subtitle, the Attorney General shall ensure the distribution of awards equitably on a geographic basis, including urban and rural areas of varying population and geographic size.

[SEC. 30303. PROGRAM REQUIREMENTS.

[(a) DESCRIPTION.—An applicant shall include a description of the distinctive factors that contribute to chronic violent crime within the area proposed to be served by the grant. Such factors may include lack of alternative activities and programs for youth, deterioration or lack of public facilities, inadequate public services such as public transportation, street lighting, community-based substance abuse treatment facilities, or employment services offices, and inadequate police or public safety services, equipment, or facilities.

[(b) COMPREHENSIVE PLAN.—An applicant shall include a comprehensive, community-based plan to attack intensively the principal factors identified in subsection (a). Such plans shall describe the specific purposes for which funds are proposed to be used and how each purpose will address specific factors. The plan also shall specify how local nonprofit organizations, government agencies, private businesses, citizens groups, volunteer organizations, and interested citizens will cooperate in carrying out the purposes of the grant.

[(c) EVALUATION.—An applicant shall include an evaluation plan by which the success of the plan will be measured, including the articulation of specific, objective indicia of performance, how the indicia will be evaluated, and a projected timetable for carrying out the evaluation.

[SEC. 30304. APPLICATIONS.

[To request a grant under this subtitle the chief local elected official of an area shall—

[(1) prepare and submit to the Attorney General an application in such form, at such time, and in accordance with such procedures, as the Attorney General shall establish; and

[(2) provide an assurance that funds received under this subtitle shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for programs funded under this subtitle.

[SEC. 30305. REPORTS.

[Not later than December 31, 1998, the Attorney General shall prepare and submit to the Committees on the Judiciary of the House and Senate an evaluation of the model programs developed under this subtitle and make recommendations regarding the implementation of a national crime prevention program.

[SEC. 30306. DEFINITIONS.

[In this subtitle—

[“chief local elected official” means an official designated under regulations issued by the Attorney General. The criteria used by the Attorney General in promulgating such regulations shall ensure administrative efficiency and accountability in the expenditure of funds and execution of funded projects under this subtitle.

[“chronic high intensity crime area” means an area meeting criteria adopted by the Attorney General by regulation that, at a minimum, define areas with—

[(A) consistently high rates of violent crime as reported in the Federal Bureau of Investigation's “Uniform Crime Reports”, and

[(B) chronically high rates of poverty as determined by the Bureau of the Census.

[“State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

[SEC. 30307. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this subtitle—

[(1) $100,000,000 for fiscal year 1996;
[(2) $125,100,000 for fiscal year 1997;
[(3) $125,100,000 for fiscal year 1998;
[(4) $125,100,000 for fiscal year 1999; and
[(5) $150,200,000 for fiscal year 2000.]

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[Subtitle G—Assistance for Delinquent and At-Risk Youth

[SEC. 30701. GRANT AUTHORITY.

[(a) GRANTS.—

[(1) IN GENERAL.—In order to prevent the commission of crimes or delinquent acts by juveniles, the Attorney General may make grants to public or private nonprofit organizations to support the development and operation of projects to provide residential services to youth, aged 11 to 19, who—

[(A) have dropped out of school;

[(B) have come into contact with the juvenile justice system; or

[(C) are at risk of dropping out of school or coming into contact with the juvenile justice system.

[(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in making grants under paragraph (1).

[(3) SERVICES.—Such services shall include activities designed to—

[(A) increase the self-esteem of such youth;

[(B) assist such youth in making healthy and responsible choices;

[(C) improve the academic performance of such youth pursuant to a plan jointly developed by the applicant and the school which each such youth attends or should attend; and

[(D) provide such youth with vocational and life skills.

[(b) APPLICATIONS.—

[(1) IN GENERAL.—A public agency or private nonprofit organization which desires a grant under this section shall submit an application at such time and in such manner as the Attorney General may prescribe.

[(2) CONTENTS.—An application under paragraph (1) shall include—

[(A) a description of the program developed by the applicant, including the activities to be offered;

[(B) a detailed discussion of how such program will prevent youth from committing crimes or delinquent acts;

[(C) evidence that such program—

[(i) will be carried out in facilities which meet applicable State and local laws with regard to safety;

[(ii) will include academic instruction, approved by the State, Indian tribal government, or local educational agency, which meets or exceeds State, Indian tribal government, and local standards and curricular requirements; and

[(iii) will include instructors and other personnel who possess such qualifications as may be required by applicable State or local laws; and

[(D) specific, measurable outcomes for youth served by the program.

[(c) CONSIDERATION OF APPLICATIONS.—Not later than 60 days following the submission of applications, the Attorney General shall—

[(1) approve each application and disburse the funding for each such application; or

[(2) disapprove the application and inform the applicant of such disapproval and the reasons therefor.

[(d) REPORTS.—A grantee under this section shall annually submit a report to the Attorney General that describes the activities and accomplishments of such program, including the degree to which the specific youth outcomes are met.

[(e) DEFINITIONS.—In this subtitle—

["Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

["State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

[SEC. 30702. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated for grants under section 30701—

[(1) $5,400,000 for fiscal year 1996;
[(2) $6,300,000 for fiscal year 1997;
[(3) $7,200,000 for fiscal year 1998;
[(4) $8,100,000 for fiscal year 1999; and
[(5) $9,000,000 for fiscal year 2000.

[Subtitle H—Police Recruitment

[SEC. 30801. GRANT AUTHORITY.

[(a) GRANTS.—

[(1) IN GENERAL.—The Attorney General may make grants to qualified community organizations to assist in meeting the costs of qualified programs which are designed to recruit and retain applicants to police departments.

[(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in making grants under paragraph (1).

[(b) QUALIFIED COMMUNITY ORGANIZATIONS.—An organization is a qualified community organization which is eligible to receive a grant under subsection (a) if the organization—

[(1) is a nonprofit organization; and

[(2) has training and experience in—

[(A) working with a police department and with teachers, counselors, and similar personnel,

[(B) providing services to the community in which the organization is located,

[(C) developing and managing services and techniques to recruit individuals to become members of a police department and to assist such individuals in meeting the membership requirements of police departments,

[(D) developing and managing services and techniques to assist in the retention of applicants to police departments, and

[(E) developing other programs that contribute to the community.

[(c) QUALIFIED PROGRAMS.—A program is a qualified program for which a grant may be made under subsection (a) if the program is designed to recruit and train individuals from underrepresented neighborhoods and localities and if—

[(1) the overall design of the program is to recruit and retain applicants to a police department;

[(2) the program provides recruiting services which include tutorial programs to enable individuals to meet police force academic requirements and to pass entrance examinations;

[(3) the program provides counseling to applicants to police departments who may encounter problems throughout the application process; and

[(4) the program provides retention services to assist in retaining individuals to stay in the application process of a police department.

[(d) Applications.—To qualify for a grant under subsection (b), a qualified organization shall submit an application to the Attorney General in such form as the Attorney General may prescribe. Such application shall—

[(1) include documentation from the applicant showing—

[(A) the need for the grant;

[(B) the intended use of grant funds;

[(C) expected results from the use of grant funds; and

[(D) demographic characteristics of the population to be served, including age, disability, race, ethnicity, and languages used; and

[(2) contain assurances satisfactory to the Attorney General that the program for which a grant is made will meet the applicable requirements of the program guidelines prescribed by the Attorney General under subsection (i).

[(e) Action by the Attorney General.—Not later than 60 days after the date that an application for a grant under subsection (a) is received, the Attorney General shall consult with the police department which will be involved with the applicant and shall—

[(1) approve the application and disburse the grant funds applied for; or

[(2) disapprove the application and inform the applicant that the application is not approved and provide the applicant with the reasons for the disapproval.

[(f) Grant Disbursement.—The Attorney General shall disburse funds under a grant under subsection (a) in accordance with regulations of the Attorney General which shall ensure—

[(1) priority is given to applications for areas and organizations with the greatest showing of need;

[(2) that grant funds are equitably distributed on a geographic basis; and

[(3) the needs of underserved populations are recognized and addressed.

[(g) Grant Period.—A grant under subsection (a) shall be made for a period not longer than 3 years.

[(h) Grantee Reporting.—(1) For each year of a grant period for a grant under subsection (a), the recipient of the grant shall file a performance report with the Attorney General explaining the activities carried out with the funds received and assessing the effectiveness of such activities in meeting the purpose of the recipient's qualified program.

[(2) If there was more than one recipient of a grant, each recipient shall file such report.

[(3) The Attorney General shall suspend the funding of a grant, pending compliance, if the recipient of the grant does not file the report required by this subsection or uses the grant for a purpose not authorized by this section.

[(i) GUIDELINES.—The Attorney General shall, by regulation, prescribe guidelines on content and results for programs receiving a grant under subsection (a). Such guidelines shall be designed to establish programs which will be effective in training individuals to enter instructional programs for police departments and shall include requirements for—

[(1) individuals providing recruiting services;

[(2) individuals providing tutorials and other academic assistance programs;

[(3) individuals providing retention services; and

[(4) the content and duration of recruitment, retention, and counseling programs and the means and devices used to publicize such programs.

[SEC. 30802. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated for grants under section 30801—

[(1) $2,000,000 for fiscal year 1996;
[(2) $4,000,000 for fiscal year 1997;
[(3) $5,000,000 for fiscal year 1998;
[(4) $6,000,000 for fiscal year 1999; and
[(5) $7,000,000 for fiscal year 2000.

[Subtitle J—Local Partnership Act

[SEC. 31001. ESTABLISHMENT OF PAYMENT PROGRAM.

[(a) ESTABLISHMENT OF PROGRAM.—Title 31, United States Code, is amended by inserting after chapter 65 the following new chapter:

[“CHAPTER 67—FEDERAL PAYMENTS

[“Sec.
[“6701. Payments to local governments.
[“6702. Local Government Fiscal Assistance Fund.
[“6703. Qualification for payment.
[“6704. State area allocations; allocations and payments to territorial governments.
[“6705. Local government allocations.
[“6706. Income gap multiplier.
[“6707. State variation of local government allocations.
[“6708. Adjustments of local government allocations.
[“6709. Information used in allocation formulas.
[“6710. Public participation.
[“6711. Prohibited discrimination.
[“6712. Discrimination proceedings.
[“6713. Suspension and termination of payments in discrimination proceedings.
[“6714. Compliance agreements.
[“6715. Enforcement by the Attorney General of prohibitions on discrimination.
[“6716. Civil action by a person adversely affected.
[“6717. Judicial review.
[“6718. Investigations and reviews.
[“6719. Reports.
[“6720. Definitions, application, and administration.

[“§ 6701. Payments to local governments

[“(a) PAYMENT AND USE.—

[“(1) PAYMENT.—The Secretary shall pay to each unit of general local government which qualifies for a payment under this chapter an amount equal to the sum of any amounts allocated to the government under this chapter for each payment period. The Secretary shall pay such amount out of the Local Government Fiscal Assistance Fund under section 6702.

[“(2) USE.—Amounts paid to a unit of general local government under this section shall be used by that unit for carrying out one or more programs of the unit related to—

[“(A) education to prevent crime;

[“(B) substance abuse treatment to prevent crime; or

[“(C) job programs to prevent crime.

[“(3) COORDINATION.—Programs funded under this title shall be coordinated with other existing Federal programs to meet the overall needs of communities that benefit from funds received under this section.

[“(b) TIMING OF PAYMENTS.—The Secretary shall pay each amount allocated under this chapter to a unit of general local government for a payment period by the later of 90 days after the date the amount is available or the first day of the payment period provided that the unit of general local government has provided the Secretary with the assurances required by section 6703(d).

[“(c) ADJUSTMENTS.—

[“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall adjust a payment under this chapter to a unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid.

[“(2) CONSIDERATIONS.—The Secretary may increase or decrease under this subsection a payment to a unit of local government only if the Secretary determines the need for the increase or decrease, or the unit requests the increase or decrease, within one year after the end of the payment period for which the payment was made.

[“(d) RESERVATION FOR ADJUSTMENTS.—The Secretary may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of general local government in a State if the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

[“(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

“(1) REPAYMENT REQUIRED.—A unit of general local government shall repay to the Secretary, by not later than 15 months after receipt from the Secretary, any amount that is—

[“(A) paid to the unit from amounts appropriated under the authority of this section; and

“(B) not expended by the unit within one year after receipt from the Secretary.

[“(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Secretary shall reduce payments in future payment periods accordingly.

[“(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Secretary as repayments under this subsection shall be deposited in the Local Government Fiscal Assistance Fund for future payments to units of general local government.

[“(f) EXPENDITURE WITH DISADVANTAGED BUSINESS ENTERPRISES.—

[“(1) GENERAL RULE.—Of amounts paid to a unit of general local government under this chapter for a payment period, not less than 10 percent of the total combined amounts obligated by the unit for contracts and subcontracts shall be expended with—

[“(A) small business concerns controlled by socially and economically disadvantaged individuals and women; and

[“(B) historically Black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

[“(2) EXCEPTION.—Paragraph (1) shall not apply to amounts paid to a unit of general local government to the extent the unit determines that the paragraph does not apply through a process that provides for public participation.

[“(3) DEFINITIONS.—For purposes of this subsection—

[“(A) the term ‘small business concern’ has the meaning such term has under section 3 of the Small Business Act; and

[“(B) the term ‘socially and economically disadvantaged individuals’ has the meaning such term has under section 8(d) of the Small Business Act and relevant subcontracting regulations promulgated pursuant to that section.

[“(g) NONSUPPLANTING REQUIREMENT.—

[“(1) IN GENERAL.—Funds made available under this chapter to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this chapter, be made available from State or local sources.

[“(2) BASE LEVEL AMOUNT.—The total level of funding available to a unit of local government for accounts serving eligible purposes under this chapter in the fiscal year immediately preceding receipt of a grant under this chapter shall be designated the ‘base level account’ for the fiscal year in which a grant is received. Grants under this chapter in a given fiscal year shall be reduced on a dollar for dollar basis to the extent that a unit of local government reduces its base level account in that fiscal year.

[“§ 6702. Local Government Fiscal Assistance Fund

[“(a) ADMINISTRATION OF FUND.—The Department of the Treasury has a Local Government Fiscal Assistance Fund, which consists of amounts appropriated to the Fund.

[“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund—

[“(1) $270,000,000 for fiscal year 1996;
[“(2) $283,500,000 for fiscal year 1997;
[“(3) $355,500,000 for fiscal year 1998;
[“(4) $355,500,000 for fiscal year 1999; and
[“(5) $355,500,000 for fiscal year 2000.

[Such sums are to remain available until expended.

[“(c) ADMINISTRATIVE COSTS.—Up to 2.5 percent of the amount authorized to be appropriated under subsection (b) is authorized to be appropriated for the period fiscal year 1995 through fiscal year

2000 to be available for administrative costs by the Secretary in furtherance of the purposes of the program. Such sums are to remain available until expended.

[“§ 6703. Qualification for payment

[“(a) IN GENERAL.—The Secretary shall issue regulations establishing procedures under which eligible units of general local government are required to provide notice to the Secretary of the units' proposed use of assistance under this chapter. Subject to subsection (c), the assistance provided shall be used, in amounts determined by the unit, for activities under, or for activities that are substantially similar to an activity under, 1 or more of the following programs and the notice shall identify 1 or more of the following programs for each such use:

[“(1) The Drug Abuse Resistance Education Program under section 5122 of the Elementary and Secondary Education Act of 1965.

[“(2) The National Youth Sports Program under section 682 of the Community Services Block Grant Act (Public Law 97–35) as amended by section 205, Public Law 103–252.

[“(3) The Gang Resistance Education and Training Program under the Act entitled ‘An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes', approved November 5, 1990 (Public Law 101–509).

[“(4) Programs under title II or IV of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).

[“(5) Programs under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.), as amended.

[“(6) Programs under the School to Work Opportunities Act (Public Law 103–239).

[“(7) Substance Abuse Treatment and Prevention programs authorized under title V or XIX of the Public Health Services Act (43 U.S.C. 201 et seq.).

[“(8) Programs under the Head Start Act (42 U.S.C. 9831 et seq.).

[“(9) Programs under part A or B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

[“(10) The TRIO programs under part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

[“(11) Programs under the National Literacy Act of 1991.

[“(12) Programs under the Carl Perkins Vocational Educational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

[“(13) The demonstration partnership programs including the community initiative targeted to minority youth under section 203 of the Human Services Reauthorization Act of 1994 (Public Law 103–252).

[“(14) The runaway and homeless youth program and the transitional living program for homeless youth under title III of the Juvenile Justice and Delinquency Prevention Act (Public Law 102–586).

[“(15) The family support program under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1148 et seq.).

[“(16) After-school activities for school aged children under the Child Care and Development Block Grant Act (42 U.S.C. 9858 et seq.).

[“(17) The community-based family resource programs under section 401 of the Human Services Reauthorization Act of 1994 (Public Law 103–252).

[“(18) The family violence programs under the Child Abuse Prevention and Treatment Act Amendments of 1984.

[“(19) Job training programs administered by the Department of Agriculture, the Department of Defense, or the Department of Housing and Urban Development.

[“(b) Notice to Agency.—Upon receipt of notice under subsection (a) from an eligible unit of general local government, the Secretary shall notify the head of the appropriate Federal agency for each program listed in subsection (a) that is identified in the notice as a program under which an activity will be conducted with assistance under this chapter. The notification shall state that the unit has elected to use some or all of its assistance under this chapter for activities under that program. The head of a Federal agency that receives such a notification shall ensure that such use is in compliance with the laws and regulations applicable to that program, except that any requirement to provide matching funds shall not apply to that use.

[“(c) Alternative Uses of Funds.—

[“(1) Alternative uses authorized.—In lieu of, or in addition to, use for an activity described in subsection (a) and notice for that use under subsection (a), an eligible unit of general local government may use assistance under this chapter, and shall provide notice of that use to the Secretary under subsection (a), for any other activity that is consistent with 1 or more of the purposes described in section 6701(a)(2).

[“(2) Notice deemed to describe consistent use.—Notice by a unit of general local government that it intends to use assistance under this chapter for an activity other than an activity described in subsection (a) is deemed to describe an activity that is consistent with 1 or more of the purposes described in section 6701(a)(2) unless the Secretary provides to the unit, within 30 days after receipt of that notice of intent from the unit, written notice (including an explanation) that the use is not consistent with those purposes.

[“(d) General Requirements for Qualification.—A unit of general local government qualifies for a payment under this chapter for a payment period only after establishing to the satisfaction of the Secretary that—

[“(1) the government will establish a trust fund in which the government will deposit all payments received under this chapter;

[“(2) the government will use amounts in the trust fund (including interest) during a reasonable period;

[“(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

[“(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

[“(5) all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in Reorganization Plan No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act), as amended (40 U.S.C. 276c, 48 Stat. 948);

[“(6) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Secretary after consultation with the Comptroller General of the United States. As applicable, amounts received under this chapter shall be audited in compliance with the Single Audit Act of 1984;

[“(7) after reasonable notice to the government, the government will make available to the Secretary and the Comptroller General of the United States, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General of the United States reasonably requires to review compliance and operations under section 6718(b);

[“(8) the government will make reports the Secretary reasonably requires, in addition to the annual reports required under section 6719(b); and

[“(9) the government will spend the funds only for the purposes set forth in section 6701(a)(2).

[“(e) REVIEW BY GOVERNORS.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (d).

[“(f) SANCTIONS FOR NONCOMPLIANCE.—

[“(1) IN GENERAL.—If the Secretary decides that a unit of general local government has not complied substantially with subsection (d) or regulations prescribed under subsection (d), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current payment period and later payment periods until the Secretary is satisfied that the government—

[“(A) has taken the appropriate corrective action; and

[“(B) will comply with subsection (d) and regulations prescribed under subsection (d).

[“(2) Notice.—Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for comment.

[“(3) Payment conditions.—The Secretary may make a payment to a unit of general local government notified under paragraph (1) only if the Secretary is satisfied that the government—

[“(A) has taken the appropriate corrective action; and

[“(B) will comply with subsection (d) and regulations prescribed under subsection (d).

[“§ 6704. State area allocations; allocations and payments to territorial governments

[“(a) Formula Allocation by State.—For each payment period, the Secretary shall allocate to each State out of the amount appropriated for the period under the authority of section 6702(b) (minus the amounts allocated to territorial governments under subsection (e) for the payment period) an amount bearing the same ratio to the amount appropriated (minus such amounts allocated under subsection (e)) as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

[“(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

[“(2) allocate the amount allocated to the State to units of general local government in the State under sections 6705 and 6706.

[“(b) General Formula.—

[“(1) In general.—For the payment period beginning October 1, 1994, the amount allocated to a State under this subsection for a payment period is the amount bearing the same ratio to $5,300,000,000 as—

[“(A) the population of the State, multiplied by the general tax effort factor of the State (determined under paragraph (2)), multiplied by the relative income factor of the State (determined under paragraph (3)), multiplied by the relative rate of the labor force unemployed in the State (determined under paragraph (4)); bears to

[“(B) the sum of the products determined under subparagraph (A) of this paragraph for all States.

[“(2) General tax effort factor.—The general tax effort factor of a State for a payment period is—

[“(A) the net amount of State and local taxes of the State collected during the year 1991 as reported by the Bureau of the Census in the publication Government Finances 1990–1991; divided by

[“(B) the total income of individuals, as determined by the Secretary of Commerce for national accounts purposes for 1992 as reported in the publication Survey of Current

Business (August 1993), attributed to the State for the same year.

["(3) Relative income factor.—The relative income factor of a State is a fraction in which—

["(A) the numerator is the per capita income of the United States; and

["(B) the denominator is the per capita income of the State.

["(4) Relative rate of labor force.—The relative rate of the labor force unemployed in a State is a fraction in which—

["(A) the numerator is the percentage of the labor force of the State that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes); and

["(B) the denominator is the percentage of the labor force of the United States that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes).

["(c) Alternative Formula.—For the payment period beginning October 1, 1994, the amount allocated to a State under this subsection for a payment period is the total amount the State would receive if—

["(1) $1,166,666,667 were allocated among the States on the basis of population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the population of the State bears to the population of all States;

["(2) $1,166,666,667 were allocated among the States on the basis of population inversely weighted for per capita income, by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

["(A) the population of the State, multiplied by a fraction in which—

["(i) the numerator is the per capita income of all States; and

["(ii) the denominator is the per capita income of the State; bears to

["(B) the sum of the products determined under subparagraph (A) for all States;

["(3) $600,000,000 were allocated among the States on the basis of income tax collections by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the income tax amount of the State (determined under subsection (d)(1)) bears to the sum of the income tax amounts of all States;

["(4) $600,000,000 were allocated among the States on the basis of general tax effort by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the general tax effort amount of the State (determined under subsection (d)(2)) bears to the sum of the general tax effort amounts of all States;

["(5) $600,000,000 were allocated among the States on the basis of unemployment by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

[“(A) the labor force of the State, multiplied by a fraction in which—

[“(i) the numerator is the percentage of the labor force of the State that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes); and

[“(ii) the denominator is the percentage of the labor force of the United States that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes)

[bears to

[“(B) the sum of the products determined under subparagraph (A) for all States; and

[“(6) $1,166,666,667 were allocated among the States on the basis of urbanized population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the urbanized population of the State bears to the urbanized population of all States. In this paragraph, the term ‘urbanized population’ means the population of an area consisting of a central city or cities of at least 50,000 inhabitants and the surrounding closely settled area for the city or cities considered as an urbanized area as published by the Bureau of the Census for 1990 in the publication General Population Characteristics for Urbanized Areas.

[“(d) Income Tax Amount and Tax Effort Amount.—

[“(1) Income tax amount.—The income tax amount of a State for a payment period is 15 percent of the net amount collected during the calendar year ending before the beginning of the payment period from the tax imposed on the income of individuals by the State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 164(a)(3)). The income tax amount for a payment period shall be at least 1 percent but not more than 6 percent of the United States Government individual income tax liability attributed to the State for the taxable year ending during the last calendar year ending before the beginning of the payment period. The Secretary shall determine the Government income tax liability attributed to the State by using the data published by the Secretary for 1991 in the publication Statistics of Income Bulletin (Winter 1993–1994).

[“(2) General tax effort amount.—The general tax effort amount of a State for a payment period is the amount determined by multiplying—

[“(A) the net amount of State and local taxes of the State collected during the year 1991 as reported in the Bureau of Census in the publication Government Finances 1990–1991; and

[“(B) the general tax effort factor of the State determined under subsection (b)(2).

["(e) Allocation for Puerto Rico, Guam, American Samoa, and the Virgin Islands.—

["(1) In general.—(A) For each payment period for which funds are available for allocation under this chapter, the Secretary shall allocate to each territorial government an amount equal to the product of 1 percent of the amount of funds available for allocation multiplied by the applicable territorial percentage.

["(B) For the purposes of this paragraph, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

["(2) Payments to local governments.—The governments of the territories shall make payments to local governments within their jurisdiction from sums received under this subsection as they consider appropriate.

["(3) Definitions.—For purposes of this subsection—

["(A) the term 'territorial government' means the government of a territory;

["(B) the term 'territory' means Puerto Rico, Guam, American Samoa, and the Virgin Islands; and

["(C) the term 'territorial population' means the most recent population for each territory as determined by the Bureau of Census.

["§ 6705. Local government allocations

["(a) Indian Tribes and Alaskan Natives Villages.—If there is in a State an Indian tribe or Alaskan native village having a recognized governing body carrying out substantial governmental duties and powers, the Secretary shall allocate to the tribe or village, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the tribe or village bears to the population of the State. The Secretary shall allocate amounts under this subsection to Indian tribes and Alaskan native villages in a State before allocating amounts to units of general local government in the State under subsection (c). For the payment period beginning October 1, 1994, the Secretary shall use as the population of each Indian tribe or Alaskan native village the population for 1991 as reported by the Bureau of Indian Affairs in the publication Indian Service Population and Labor Force Estimates (January 1991). In addition to uses authorized under section 6701(a)(2), amounts allocated under this subsection and paid to an Indian tribe or Alaskan native village under this chapter may be used for renovating or building prisons or other correctional facilities.

["(b) Newly Incorporated Local Governments and Annexed Governments.—If there is in a State a unit of general local government that has been incorporated since the date of the collection of the data used by the Secretary in making allocations pursuant to sections 6704 through 6706 and 6708, the Secretary shall allocate to this newly incorporated local government, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the newly incorporated local government bears to the population of the State. If there is in the State a unit of general local government that has been annexed since the date of the collection of the data used by the Secretary in making allocations pursuant to sections 6704 through 6706 and 6708, the Secretary shall pay the amount that would have been allocated to this local government to the unit of general local government that annexed it.

[“(c) Other Local Government Allocations.—

[“(1) In general.—The Secretary shall allocate among the units of general local government in a State (other than units receiving allocations under subsection (a)) the amount allocated to the State under section 6704 (as that amount is reduced by allocations under subsection (a)). Of the amount to be allocated, the Secretary shall allocate a portion equal to ½ of such amount in accordance with section 6706(1), and shall allocate a portion equal to ½ of such amount in accordance with section 6706(2). A unit of general local government shall receive an amount equal to the sum of amounts allocated to the unit from each portion.

[“(2) Ratio.—From each portion to be allocated to units of local government in a State under paragraph (1), the Secretary shall allocate to a unit an amount bearing the same ratio to the funds to be allocated as—

[“(A) the population of the unit, multiplied by the general tax effort factor of the unit (determined under paragraph (3)), multiplied by the income gap of the unit (determined under paragraph (4)), bears to

[“(B) the sum of the products determined under subparagraph (A) for all units in the State for which the income gap for that portion under paragraph (4) is greater than zero.

[“(3) General tax effort factor.—(A) Except as provided in subparagraph (C), the general tax effort factor of a unit of general local government for a payment period is—

[“(i) the adjusted taxes of the unit; divided by

[“(ii) the total income attributed to the unit.

[“(B) If the amount determined under subparagraphs (A) (i) and (ii) for a unit of general local government is less than zero, the general tax effort factor of the unit is deemed to be zero.

[“(C)(i) Except as otherwise provided in this subparagraph, for the payment period beginning October 1, 1994, the adjusted taxes of a unit of general local government are the taxes imposed by the unit for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay), as determined by the Bureau of the Census for the 1987 Census of Governments and adjusted as follows:

[“(I) Adjusted taxes equals total taxes times a fraction in which the numerator is the sum of unrestricted revenues and revenues dedicated for spending on education minus total education spending and the denominator is total unrestricted revenues.

[“(II) Total taxes is the sum of property tax; general sales tax; alcoholic beverage tax; amusement tax; insurance premium tax; motor fuels tax; parimutuels tax; public utilities tax; tobacco tax; other selective sales tax; alcoholic beverage licenses, amusement licenses; corporation licenses, hunting and fishing licenses; motor vehicle licenses; motor vehicle operator licenses; public utility licenses; occupation and business licenses, not elsewhere classified; other licenses, individual income tax; corporation net income tax; death and gift tax; documentary and stock transfer tax; severance tax; and taxes not elsewhere classified.

[“(III) Unrestricted revenues is the sum of total taxes and intergovernmental revenue from Federal Government, general revenue sharing; intergovernmental revenue from Federal Government, other general support; intergovernmental revenue from Federal Government, other; intergovernmental revenue from State government, other general support; intergovernmental revenue from State government, other; intergovernmental revenue from local governments, other general support; intergovernmental revenue from local governments, other; miscellaneous general revenue, property sale-housing and community development; miscellaneous general revenue, property sale-other property; miscellaneous general revenue, interest earnings on investments; miscellaneous general revenue, fines and forfeits; miscellaneous general revenue, rents; miscellaneous general revenues, royalties; miscellaneous general revenue, donations from private sources; miscellaneous general revenue, net lottery revenue (after prizes and administrative expenses); miscellaneous general revenue, other miscellaneous general revenue; and all other general charges, not elsewhere classified.

[“(IV) Revenues dedicated for spending on education is the sum of elementary and secondary education, school lunch; elementary and secondary education, tuition; elementary and secondary education, other; higher education, auxiliary enterprises; higher education, other; other education, not elsewhere classified; intergovernmental revenue from Federal Government, education; intergovernmental revenue from State government, education; intergovernmental revenue from local governments, interschool system revenue; intergovernmental revenue from local governments, education; interest earnings, higher education; interest earnings, elementary and secondary education; miscellaneous revenues, higher education; and miscellaneous revenues, elementary and secondary education.

[“(V) Total education spending is the sum of elementary and secondary education, current operations; elementary and secondary education, construction; elementary and secondary education, other capital outlays; elementary and secondary education, to State governments; elementary and secondary education, to local governments, not elsewhere classified; elementary and secondary education, to counties; elementary and secondary education, to municipalities; elementary and secondary education, to townships; elementary and secondary education, to school districts; elementary and secondary education, to special districts; higher education-auxiliary enterprises, current operations; higher education-auxiliary enterprises, construction; higher education, auxiliary enterprises, other capital outlays; other higher education, current operations; other higher education, construction; other higher education, other capital outlays; other higher education, to State government; other higher education, to local governments, not elsewhere classified; other higher education, to counties; other higher education, to municipalities; other higher education, to townships; other higher education, to school districts; other higher education, to special districts; education assistance and subsidies; education, not elsewhere classified, current operations; education, not elsewhere classified, construction education, not elsewhere classified, other capital outlays; education, not elsewhere classified, to State government; education, not elsewhere classified, to local governments, not elsewhere classified; education, not elsewhere classified, to counties; education, not elsewhere classified, to municipalities; education, not elsewhere classified, to townships; education, not elsewhere classified, to school districts; education, not elsewhere classified, to special districts; and education, not elsewhere classified, to Federal Government.

[“(VI) If the amount of adjusted taxes is less than zero, the amount of adjusted tax shall be deemed to be zero.

[“(VII) If the amount of adjusted taxes exceeds the amount of total taxes, the amount of adjusted taxes is deemed to equal the amount of total taxes.

[“(ii) The Secretary shall, for purposes of clause (i), include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in the geographic area of which is located the unit of general local government as taxes imposed by the unit for public purposes if—

[“(I) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

[“(II) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this clause.

[“(iii) The adjusted taxes of a unit of general local government shall not exceed the maximum allowable adjusted taxes for that unit.

[“(iv) The maximum allowable adjusted taxes for a unit of general local government is the allowable adjusted taxes of the unit minus the excess adjusted taxes of the unit.

[“(v) The allowable adjusted taxes of a unit of general government is the greater of—

[“(I) the amount equal to 2.5, multiplied by the per capita adjusted taxes of all units of general local government of the same type in the State, multiplied by the population of the unit; or

[“(II) the amount equal to the population of the unit, multiplied by the sum of the adjusted taxes of all units of municipal local government in the State, divided by the sum of the populations of all the units of municipal local government in the State.

[“(vi) The excess adjusted taxes of a unit of general local government is the amount equal to—

[“(I) the adjusted taxes of the unit, minus

[“(II) 1.5 multiplied by the allowable adjusted taxes of the unit;

[except that if this amount is less than zero then the excess adjusted taxes of the unit is deemed to be zero.

[“(vii) For purposes of this subparagraph—

[“(I) the term ‘per capita adjusted taxes of all units of general local government of the same type’ means the sum of the adjusted taxes of all units of general local government of the same type divided by the sum of the populations of all units of general local government of the same type; and

[“(II) the term ‘units of general local government of the same type’ means all townships if the unit of general local government is a township, all municipalities if the unit of general local government is a municipality, all counties if the unit of general local government is a county, or all unified city/county governments if the unit of general local government is a unified city/county government.

[“(4) INCOME GAP.—(A) Except as provided in subparagraph (B), the income gap of a unit of general local government is—

[“(i) the number which applies under section 6706, multiplied by the per capita income of the State in which the unit is located; minus

[“(ii) the per capita income of the geographic area of the unit.

[“(B) If the amount determined under subparagraph (A) for a unit of general local government is less than zero, then the relative income factor of the unit is deemed to be zero.

[“(d) SMALL GOVERNMENT ALLOCATIONS.—If the Secretary decides that information available for a unit of general local government with a population below a number (of not more than 500) prescribed by the Secretary is inadequate, the Secretary may allocate to the unit, in lieu of any allocation under subsection (b) for a payment period, an amount bearing the same ratio to the total amount to be allocated under subsection (b) for the period for all units of general local government in the State as the population of the unit bears to the population of all units in the State.

[“§ 6706. Income gap multiplier

[“For purposes of determining the income gap of a unit of general local government under section 6705(b)(4)(A), the number which applies is—

[“(1) 1.6, with respect to ½ of any amount allocated under section 6704 to the State in which the unit is located; and

[“(2) 1.2, with respect to the remainder of such amount.

[“§ 6707. State variation of local government allocations

[“(a) State Formula.—A State government may provide by law for the allocation of amounts among units of general local government in the State on the basis of population multiplied by the general tax effort factors or income gaps of the units of general local government determined under sections 6705 (a) and (b) or a combination of those factors. A State government providing for a variation of an allocation formula provided under sections 6705 (a) and (b) shall notify the Secretary of the variation by the 30th day before the beginning of the first payment period in which the variation applies. A variation shall—

[“(1) provide for allocating the total amount allocated under sections 6705 (a) and (b); and

[“(2) apply uniformly in the State.

[“(b) Certification.—A variation by a State government under this section may apply only if the Secretary certifies that the variation complies with this section. The Secretary may certify a variation only if the Secretary is notified of the variation at least 30 days before the first payment period in which the variation applies.

[“§ 6708. Adjustments of local government allocations

[“(a) Maximum Amount.—The amount allocated to a unit of general local government for a payment period may not exceed the adjusted taxes imposed by the unit of general local government as determined under section 6705(b)(3). Amounts in excess of adjusted taxes shall be paid to the Governor of the State in which the unit of local government is located.

[“(b) De Minimis Allocations to Units of General Local Government.—If the amount allocated to a unit of general local government (except an Indian tribe or an Alaskan native village) for a payment period would be less than $5,000 but for this subsection or is waived by the governing authority of the unit of general local government, the Secretary shall pay the amount to the Governor of the State in which the unit is located.

[“(c) Use of Payments to States.—The Governor of a State shall use all amounts paid to the Governor under subsections (a) and (b) for programs described in section 6701(a)(2) in areas of the State where are located the units of general local government with respect to which amounts are paid under subsection (b).

[“(d) De Minimis Allocations to Indian Tribes and Alaskan Native Villages.—

[“(1) Aggregation of de minimis allocations.—If the amount allocated to an Indian tribe or an Alaskan native village for a payment period would be less than $5,000 but for this subsection or is waived by the chief elected official of the tribe or village, the amount—

[“(A) shall not be paid to the tribe or village (except under paragraph (2)); and

[“(B) shall be aggregated with other such amounts and available for use by the Attorney General under paragraph (2).

[“(2) Use of aggregated amounts.—Amounts aggregated under paragraph (1) for a payment period shall be available for use by the Attorney General to make grants in the payment period on a competitive basis to Indian Tribes and Alaskan native village for—

[“(A) programs described in section 6701(a)(2); or

[“(B) renovating or building prisons or other correctional facilities.

[“§ 6709. Information used in allocation formulas

[“(a) POPULATION DATA FOR PAYMENT PERIOD BEGINNING OCTOBER 1, 1994.—For the payment period beginning October 1, 1994, the Secretary, in making allocations pursuant to sections 6704 through 6706 and 6708, shall use for the population of the States the population for 1992 as reported by the Bureau of the Census in the publication Current Population Reports, Series P–25, No. 1045 (July 1992) and for the population of units of general local government the Secretary shall use the population for 1990 as reported by the Bureau of the Census in the publication Summary Social, Economic, and Housing Characteristics.

[“(b) DATA FOR PAYMENT PERIODS BEGINNING AFTER SEPTEMBER 30, 1995.—For any payment period beginning after September 30, 1995, the Secretary, in making allocations pursuant to sections 6704 through 6706 and 6708, shall use information more recent than the information used for the payment period beginning October 1, 1994, provided the Secretary notifies the Committee on Government Operations of the House of Representatives at least 90 days prior to the beginning of the payment period that the Secretary has determined that the more recent information is more reliable than the information used for the payment period beginning October 1, 1994.

[“§ 6710. Public participation

[“(a) HEARINGS.—

[“(1) IN GENERAL.—A unit of general local government expending payments under this chapter shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

[“(2) SENIOR CITIZENS.—A unit of general local government holding a hearing required under this subsection or by the budget process of the government shall try to provide senior citizens and senior citizen organizations with an opportunity to present views at the hearing before the government makes a final decision on the use of the payment.

[“(b) DISCLOSURE OF INFORMATION.—

[“(1) IN GENERAL.—By the 10th day before a hearing required under subsection (a)(1) is held, a unit of general local government shall—

[“(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

[“(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

[“(2) AVAILABILITY.—By the 30th day after adoption of the budget under State or local law, the government shall—

[“(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

[“(B) publish in at least one newspaper of general circulation a notice that the information referred to in subparagraph (A) is available for inspection.

[“(c) WAIVERS OF REQUIREMENTS.—A requirement—

[“(1) under subsection (a)(1) may be waived if the budget process required under the applicable State or local law or charter provisions—

[“(A) ensures the opportunity for public attendance and participation contemplated by subsection (a); and

[“(B) includes a hearing on the proposed use of a payment received under this chapter in relation to the entire budget of the government; and

[“(2) under subsection (b)(1)(B) and paragraph (2)(B) may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government from amounts available for payment under this chapter, or if publication is otherwise impracticable.

[“(d) EXCEPTION TO 10-DAY LIMITATION.—If the Secretary is satisfied that a unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b)(1) may be changed to the extent necessary to comply with applicable State or local law.

[“§ 6711. Prohibited discrimination

[“(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a unit of general local government because of race, color, national origin, or sex if the government receives a payment under this chapter.

[“(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a unit of general local government if the government receives a payment under this chapter:

[“(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

[“(2) A prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973.

[“(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

[“(c) Limitations on Applicability of Prohibitions.—Subsections (a) and (b) do not apply if the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

[“(d) Investigation Agreements.—The Secretary shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

[“(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

[“(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

[“§ 6712. Discrimination proceedings

[“(a) Notice of Noncompliance.—By the 10th day after the Secretary makes a finding of discrimination or receives a holding of discrimination about a unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

[“(b) Informal Presentation of Evidence.—A unit of general local government may present evidence informally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e), the government may present evidence on whether—

[“(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6711(a);

[“(2) the program or activity of the government violated a prohibition described in section 6711(b); and

[“(3) any part of that program or activity has been paid for with a payment received under this chapter.

[“(c) Temporary Suspension of Payments.—By the end of the 30-day period under subsection (b), the Secretary shall decide whether the unit of general local government has not complied with section 6711 (a) or (b), unless the government has entered into a compliance agreement under section 6714. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision, the government—

[“(1) enters into a compliance agreement under section 6714; or

[“(2) requests a proceeding under subsection (d)(1).

[“(d) Administrative Review of Suspensions.—

[“(1) Proceeding.—A proceeding requested under subsection (c)(2) shall begin by the 30th day after the Secretary receives a request for the proceeding. The proceeding shall be before an administrative law judge appointed under section 3105 of title 5, United States Code. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the unit of general local government is likely to prevail in showing compliance with section 6711 (a) or (b).

["(2) DECISION.—If the administrative law judge decides at the end of a proceeding under paragraph (1) that the unit of general local government has—

["(A) not complied with section 6711 (a) or (b), the judge may order payments to the government under this chapter terminated; or

["(B) complied with section 6711 (a) or (b), a suspension under section 6713(a)(1)(A) shall be discontinued promptly.

["(3) LIKELIHOOD OF PREVAILING.—An administrative law judge may not issue a preliminary decision that the government is not likely to prevail if the judge has issued a decision described in paragraph (2)(A).

["(e) BASIS FOR REVIEW.—In a proceeding under subsections (b) through (d) on a program or activity of a unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

["§ 6713. Suspension and termination of payments in discrimination proceedings

["(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

["(1) IN GENERAL.—The Secretary shall suspend payment under this chapter to a unit of general local government—

["(A) if an administrative law judge appointed under section 3105 of title 5, United States Code, issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711 (a) and (b);

["(B) if the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711 (a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

["(C) if required under section 6712(c).

["(2) EFFECTIVENESS.—A suspension already ordered under paragraph (1)(A) continues in effect if the administrative law judge makes a decision under paragraph (1)(B).

["(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

["(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of general local government of payments suspended by the Secretary only—

["(1) as of the time of, and under the conditions stated in—

["(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

[“(B) a compliance agreement entered into by the Secretary under section 6714(a)(2);

[“(2) if the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

[“(3) if a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6712(d)(1)), that the government has complied with sections 6711 (a) and (b); or

[“(4) if a suspension is discontinued under subsection (b).

[“(d) PAYMENT OF DAMAGES AS COMPLIANCE.—For purposes of subsection (c)(2), compliance by a government may consist of the payment of restitution to a person injured because the government did not comply with section 6711 (a) or (b).

[“(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a unit of general local government of payments terminated under section 6712(d)(2)(A) only if the decision resulting in the termination is reversed by an appellate court.

[“§ 6714. Compliance agreements

[“(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

[“(1) approved by the Secretary, between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of general local government that has not complied with section 6711 (a) or (b); or

[“(2) between the Secretary and the chief executive officer.

[“(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

[“(1) shall state the conditions the unit of general local government has agreed to comply with that would satisfy the obligations of the government under sections 6711 (a) and (b);

[“(2) shall cover each matter that has been found not to comply, or would not comply, with section 6711 (a) or (b); and

[“(3) may be a series of agreements that dispose of those matters.

[“(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of a compliance agreement to each person who filed a complaint referred to in section 6716(b), or, if an agreement under subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with section 6711 (a) or (b). The Secretary shall submit the copy by the 15th day after an agreement is made. However, if the Secretary approves an agreement under subsection (a)(1) after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

[“§ 6715. Enforcement by the Attorney General of prohibitions on discrimination

[“The Attorney General may bring a civil action in an appropriate district court of the United States against a unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6711 (a) or (b). The court may grant—

[“(1) a temporary restraining order;

[“(2) an injunction; or

[“(3) an appropriate order to ensure enjoyment of rights under section 6711 (a) or (b), including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

[“§ 6716. Civil action by a person adversely affected

[“(a) Authority for Private Suits in Federal or State Court.—If a unit of general local government, or an officer or employee of a unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

[“(b) Administrative Remedies Required To Be Exhausted.—A person adversely affected shall file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6711(d). Administrative remedies are deemed to be exhausted by the person after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

[“(1) issues a decision that the government has not failed to comply with this chapter; or

[“(2) does not issue a decision on the complaint.

[“(c) Authority of Court.—In an action under this section, the court—

[“(1) may grant—

[“(A) a temporary restraining order;

[“(B) an injunction; or

[“(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

[“(2) to enforce compliance with section 6711 (a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

[“(d) Intervention by Attorney General.—In an action under this section to enforce compliance with section 6711 (a) or (b), the Attorney General may intervene in the action if the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

[“§ 6717. Judicial review

[“(a) Appeals in Federal Court of Appeals.—A unit of general local government which receives notice from the Secretary about withholding payments under section 6703(f), suspending payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition shall be filed by the 60th day after the date the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary.

["(b) Filing of Record of Administrative Proceeding.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

["(c) Court Action.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. If a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. Upon such a remand, the Secretary may make new or modified findings and shall certify additional proceedings to the court.

["(d) Review Only by Supreme Court.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.

[§ 6718. Investigations and reviews

["(a) Investigations by Secretary.—

["(1) In general.—The Secretary shall within a reasonable time limit—

["(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6716(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

["(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

["(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6711 (a) or (b) or other provision of this chapter.

["(2) Time limit.—The maximum time limit under paragraph (1)(A) is 120 days.

["(b) Reviews by Comptroller General.—The Comptroller General of the United States shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for the Congress to evaluate compliance and operations under this chapter. These reviews shall include a comparison of the waste and inefficiency of local governments using funds under this chapter compared to waste and inefficiency with other comparable Federal programs.

[§ 6719. Reports

[“(a) Reports by Secretary to Congress.—Before June 2 of each year prior to 2002, the Secretary personally shall report to the Congress on—

[“(1) the status and operation of the Local Government Fiscal Assistance Fund during the prior fiscal year; and

[“(2) the administration of this chapter, including a complete and detailed analysis of—

[“(A) actions taken to comply with sections 6711 through 6715, including a description of the kind and extent of noncompliance and the status of pending complaints;

[“(B) the extent to which units of general local government receiving payments under this chapter have complied with the requirements of this chapter;

[“(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

[“(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

[“(b) Reports by Units of General Local Government to Secretary.—

[“(1) In general.—At the end of each fiscal year, each unit of general local government which received a payment under this chapter for the fiscal year shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

[“(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated in the fiscal year;

[“(B) the relationship of the payment to the relevant functional items in the budget of the government; and

[“(C) the differences between the actual and proposed use of the payment.

[“(2) Availability of report.—The Secretary shall provide a copy of a report submitted under paragraph (1) by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the manner and form prescribed by the Secretary.

[§ 6720. Definitions, application, and administration

[“(a) Definitions.—In this chapter—

[“(1) ‘unit of general local government’ means—

[“(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

[“(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers;

[“(2) ‘payment period’ means each 1-year period beginning on October 1 of the years 1994 through 2000;

[“(3) ‘State and local taxes’ means taxes imposed by a State government or unit of general local government or other political subdivision of a State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes;

[“(4) ‘State’ means any of the several States and the District of Columbia;

[“(5) ‘income’ means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes, which for units of general local government is reported by the Bureau of the Census for 1990 in the publication Summary Social, Economic, and Housing Characteristics;

[“(6) ‘per capita income’ means—

[“(A) in the case of the United States, the income of the United States divided by the population of the United States;

[“(B) in the case of a State, the income of that State, divided by the population of that State; and

[“(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government;

[“(7) ‘finding of discrimination’ means a decision by the Secretary about a complaint described in section 6716(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with section 6711 (a) or (b);

[“(8) ‘holding of discrimination’ means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, United States Code, that a unit of general local government expending amounts received under this chapter has—

[“(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

[“(B) violated a prohibition against discrimination described in section 6711(b); and

[“(9) ‘Secretary’ means the Secretary of Housing and Urban Development.

[“(b) Delegation of Administration.—The Secretary may enter into agreements with other executive branch departments and agencies to delegate to that department or agency all or part of the Secretary’s responsibility for administering this chapter.

[“(c) Treatment of Subsumed Areas.—If the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. If only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations prescribed by the Secretary, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.

["(d) BOUNDARY AND OTHER CHANGES.—If a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of sections 6704 through 6708 in a way that does not carry out the purposes of sections 6701 through 6708, the Secretary shall apply sections 6701 through 6708 under regulations of the Secretary in a way that is consistent with those purposes.".

[(b) ISSUANCE OF REGULATIONS.—Within 90 days of the date of enactment of this Act the Secretary shall issue regulations, which may be interim regulations, to implement subsection (a), modifying the regulations for carrying into effect the Revenue Sharing Act that were in effect as of July 1, 1987, and that were published in 31 C.F.R. part 51. The Secretary need not hold a public hearing before issuing these regulations.

[(c) DEFICIT NEUTRALITY.—Any appropriation to carry out the amendment made by this subtitle to title 31, United States Code, for fiscal year 1995 or 1996 shall be offset by cuts elsewhere in appropriations for that fiscal year.

[SEC. 31002. TECHNICAL AMENDMENT.

[The table of chapters at the beginning of subtitle V of title 31, United States Code, is amended by adding after the item relating to chapter 65 the following:

["67. Federal payments .... 6701".

[Subtitle K—National Community Economic Partnership

[SEC. 31101. SHORT TITLE.

[This subtitle may be cited as the "National Community Economic Partnership Act of 1994".

[CHAPTER 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

[SEC. 31111. PURPOSE.

[It is the purpose of this chapter to increase private investment in distressed local communities and to build and expand the capacity of local institutions to better serve the economic needs of local residents through the provision of financial and technical assistance to community development corporations.

[SEC. 31112. PROVISION OF ASSISTANCE.

[(a) AUTHORITY.—The Secretary of Health and Human Services (referred to in this subtitle as the "Secretary") may, in accordance with this chapter, provide nonrefundable lines of credit to community development corporations for the establishment, maintenance or expansion of revolving loan funds to be utilized to finance projects intended to provide business and employment opportunities for low-income, unemployed, or underemployed individuals and to improve the quality of life in urban and rural areas.

[(b) REVOLVING LOAN FUNDS.—

[(1) COMPETITIVE ASSESSMENT OF APPLICATIONS.—In providing assistance under subsection (a), the Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible entities for lines of credit for the capitalization of revolving funds.

[(2) ELIGIBLE ENTITIES.—To be eligible to receive a line of credit under this chapter an applicant shall—

[(A) be a community development corporation;

[(B) prepare and submit an application to the Secretary that shall include a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted and the impact of such assistance on low-income, underemployed, and unemployed individuals in the target area;

[(C) demonstrate previous experience in the development of low-income housing or community or business development projects in a low-income community and provide a record of achievement with respect to such projects; and

[(D) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit or letters of commitment) in an amount that is at least equal to the amount requested in the application submitted under subparagraph (B).

[(3) EXCEPTION.—Notwithstanding the provisions of paragraph (2)(D), the Secretary may reduce local contributions to not less than 25 percent of the amount of the line of credit requested by the community development corporation if the Secretary determines such to be appropriate in accordance with section 31116.

[SEC. 31113. APPROVAL OF APPLICATIONS.

[(a) IN GENERAL.—In evaluating applications submitted under section 31112(b)(2)(B), the Secretary shall ensure that—

[(1) the residents of the target area to be served (as identified under the strategic development plan) would have an income that is less than the median income for the area (as determined by the Secretary);

[(2) the applicant community development corporation possesses the technical and managerial capability necessary to administer a revolving loan fund and has past experience in the development and management of housing, community and economic development programs;

[(3) the applicant community development corporation has provided sufficient evidence of the existence of good working relationships with—

[(A) local businesses and financial institutions, as well as with the community the corporation proposes to serve; and

[(B) local and regional job training programs;

[(4) the applicant community development corporation will target job opportunities that arise from revolving loan fund investments under this chapter so that 75 percent of the jobs retained or created under such investments are provided to—

[(A) individuals with—

[(i) incomes that do not exceed the Federal poverty line; or

[(ii) incomes that do not exceed 80 percent of the median income of the area;

[(B) individuals who are unemployed or underemployed;

[(C) individuals who are participating or have participated in job training programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Family Support Act of 1988 (Public Law 100–485);

[(D) individuals whose jobs may be retained as a result of the provision of financing available under this chapter; or

[(E) individuals who have historically been underrepresented in the local economy; and

[(5) a representative cross section of applicants are approved, including large and small community development corporations, urban and rural community development corporations and community development corporations representing diverse populations.

[(b) PRIORITY.—In determining which application to approve under this chapter the Secretary shall give priority to those applicants proposing to serve a target area—

[(1) with a median income that does not exceed 80 percent of the median for the area (as determined by the Secretary); and

[(2) with a high rate of unemployment, as determined by the Secretary or in which the population loss is at least 7 percent from April 1, 1980, to April 1, 1990, as reported by the Bureau of the Census.

[SEC. 31114. AVAILABILITY OF LINES OF CREDIT AND USE.

[(a) APPROVAL OF APPLICATION.—The Secretary shall provide a community development corporation that has an application approved under section 31113 with a line of credit in an amount determined appropriate by the Secretary, subject to the limitations contained in subsection (b).

[(b) LIMITATIONS ON AVAILABILITY OF AMOUNTS.—

[(1) MAXIMUM AMOUNT.—The Secretary shall not provide in excess of $2,000,000 in lines of credit under this chapter to a single applicant.

[(2) PERIOD OF AVAILABILITY.—A line of credit provided under this chapter shall remain available over a period of time established by the Secretary, but in no event shall any such period of time be in excess of 3 years from the date on which such line of credit is made available.

[(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), if a recipient of a line of credit under this chapter has made full and productive use of such line of credit, can demonstrate the need and demand for additional assistance, and can meet the requirements of section 31112(b)(2), the amount of such line of credit may be increased by not more than $1,500,000.

[(c) AMOUNTS DRAWN FROM LINE OF CREDIT.—Amounts drawn from each line of credit under this chapter shall be used solely for the purposes described in section 31111 and shall only be drawn down as needed to provide loans, investments, or to defray administrative costs related to the establishment of a revolving loan fund.

[(d) USE OF REVOLVING LOAN FUNDS.—Revolving loan funds established with lines of credit provided under this chapter may be used to provide technical assistance to private business enterprises and to provide financial assistance in the form of loans, loan guarantees, interest reduction assistance, equity shares, and other such forms of assistance to business enterprises in target areas and who are in compliance with section 31113(a)(4).

[SEC. 31115. LIMITATIONS ON USE OF FUNDS.

[(a) MATCHING REQUIREMENT.—Not to exceed 50 percent of the total amount to be invested by an entity under this chapter may be derived from funds made available from a line of credit under this chapter.

[(b) TECHNICAL ASSISTANCE AND ADMINISTRATION.—Not to exceed 10 percent of the amounts available from a line of credit under this chapter shall be used for the provision of training or technical assistance and for the planning, development, and management of economic development projects. Community development corporations shall be encouraged by the Secretary to seek technical assistance from other community development corporations, with expertise in the planning, development and management of economic development projects. The Secretary shall assist in the identification and facilitation of such technical assistance.

[(c) LOCAL AND PRIVATE SECTOR CONTRIBUTIONS.—To receive funds available under a line of credit provided under this chapter, an entity, using procedures established by the Secretary, shall demonstrate to the community development corporation that such entity agrees to provide local and private sector contributions in accordance with section 31112(b)(2)(D), will participate with such community development corporation in a loan, guarantee or investment program for a designated business enterprise, and that the total financial commitment to be provided by such entity is at least equal to the amount to be drawn from the line of credit.

[(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made using funds made available under this chapter may be used only for the purposes described in section 31111 and shall be reinvested in the community in which they were generated.

[SEC. 31116. PROGRAM PRIORITY FOR SPECIAL EMPHASIS PROGRAMS.

[(a) IN GENERAL.—The Secretary shall give priority in providing lines of credit under this chapter to community development corporations that propose to undertake economic development activities in distressed communities that target women, Native Americans, at risk youth, farmworkers, population-losing communities, very low-income communities, single mothers, veterans, and refugees; or that expand employee ownership of private enterprises and small businesses, and to programs providing loans of not more than $35,000 to very small business enterprises.

[(b) Reservation of Funds.—Not less than 5 percent of the amounts made available under section 31112(a)(2)(A) may be reserved to carry out the activities described in subsection (a).

[CHAPTER 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

[SEC. 31121. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

[(a) Purpose.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

[(b) Skill Enhancement Grants.—

[(1) In general.—The Secretary shall award grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop community economic development projects.

[(2) Use of funds.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

[(A) to acquire training and technical assistance from agencies or institutions that have extensive experience in the development and management of low-income community economic development projects; or

[(B) to acquire such assistance from other highly successful community development corporations.

[(c) Operating Grants.—

[(1) In general.—The Secretary shall award grants to community development corporations to enable such corporations to support an administrative capacity for the planning, development, and management of low-income community economic development projects.

[(2) Use of funds.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

[(A) to conduct evaluations of the feasibility of potential low-income community economic development projects that address identified needs in the low-income community and that conform to those projects and activities permitted under subtitle A;

[(B) to develop a business plan related to such a potential project; or

[(C) to mobilize resources to be contributed to a planned low-income community economic development project or strategy.

[(d) Applications.—A community development corporation that desires to receive a grant under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

[(e) Amount Available for a Community Development Corporation.—Amounts provided under this section to a community development corporation shall not exceed $75,000 per year. Such corporations may apply for grants under this section for up to 3 consecutive years, except that such corporations shall be required to submit a new application for each grant for which such corporation desires to receive and compete on the basis of such applications in the selection process.

[SEC. 31122. EMERGING COMMUNITY DEVELOPMENT CORPORATION REVOLVING LOAN FUNDS.

[(a) AUTHORITY.—The Secretary may award grants to emerging community development corporations to enable such corporations to establish, maintain or expand revolving loan funds, to make or guarantee loans, or to make capital investments in new or expanding local businesses.

[(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

[(1) be a community development corporation;

[(2) have completed not less than one nor more than two community economic development projects or related projects that improve or provide job and employment opportunities to low-income individuals;

[(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted using amounts received under the grant and the impact of such assistance on low-income individuals; and

[(4) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit, or letters of commitment) in an amount that is equal to at least 10 percent of the amounts requested in the application submitted under paragraph (2).

[(c) USE OF THE REVOLVING LOAN FUND.—

[(1) IN GENERAL.—A revolving loan fund established or maintained with amounts received under this section may be utilized to provide financial and technical assistance, loans, loan guarantees or investments to private business enterprises to—

[(A) finance projects intended to provide business and employment opportunities for low-income individuals and to improve the quality of life in urban and rural areas; and

[(B) build and expand the capacity of emerging community development corporations and serve the economic needs of local residents.

[(2) TECHNICAL ASSISTANCE.—The Secretary shall encourage emerging community development corporations that receive grants under this section to seek technical assistance from established community development corporations, with expertise in the planning, development and management of economic development projects and shall facilitate the receipt of such assistance.

[(3) LIMITATION.—Not to exceed 10 percent of the amounts received under this section by a grantee shall be used for training, technical assistance and administrative purposes.

[(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made with amounts provided under this section may be utilized only for the purposes described in this subtitle and shall be reinvested in the community in which they were generated.

[(e) AMOUNTS AVAILABLE.—Amounts provided under this section to a community development corporation shall not exceed $500,000 per year.

[CHAPTER 3—MISCELLANEOUS PROVISIONS

[SEC. 31131. DEFINITIONS.

[As used in this subtitle:

[(1) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

[(2) LOCAL AND PRIVATE SECTOR CONTRIBUTION.—The term "local and private sector contribution" means the funds available at the local level (by private financial institutions, State and local governments) or by any private philanthropic organization and private, nonprofit organizations that will be committed and used solely for the purpose of financing private business enterprises in conjunction with amounts provided under this subtitle.

[(3) POPULATION-LOSING COMMUNITY.—The term "population-losing community" means any county in which the net population loss is at least 7 percent from April 1, 1980 to April 1, 1990, as reported by the Bureau of the Census.

[(4) PRIVATE BUSINESS ENTERPRISE.—The term "private business enterprise" means any business enterprise that is engaged in the manufacture of a product, provision of a service, construction or development of a facility, or that is involved in some other commercial, manufacturing or industrial activity, and that agrees to target job opportunities stemming from investments authorized under this subtitle to certain individuals.

[(5) TARGET AREA.—The term "target area" means any area defined in an application for assistance under this subtitle that has a population whose income does not exceed the median for the area within which the target area is located.

[(6) VERY LOW-INCOME COMMUNITY.—The term "very low-income community" means a community in which the median income of the residents of such community does not exceed 50 percent of the median income of the area.

SEC. 31132. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There are authorized to be appropriated to carry out chapters 1 and 2—

[(1) $45,000,000 for fiscal year 1996;

[(2) $72,000,000 for fiscal year 1997;

[(3) $76,500,000 for fiscal year 1998; and

[(4) $76,500,000 for fiscal year 1999.

[(b) EARMARKS.—Of the aggregate amount appropriated under subsection (a) for each fiscal year—

[(1) 60 percent shall be available to carry out chapter 1; and

[(2) 40 percent shall be available to carry out chapter 2.

[(c) AMOUNTS.—Amounts appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

[SEC. 31133. PROHIBITION.

[None of the funds authorized under this subtitle shall be used to finance the construction of housing.

[Subtitle O—Urban Recreation and At-Risk Youth

[SEC. 31501. PURPOSE OF ASSISTANCE.

[Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end: "It is further the purpose of this title to improve recreation facilities and expand recreation services in urban areas with a high incidence of crime and to help deter crime through the expansion of recreation opportunities for at-risk youth. It is the further purpose of this section to increase the security of urban parks and to promote collaboration between local agencies involved in parks and recreation, law enforcement, youth social services, and juvenile justice system.".

[SEC. 31502. DEFINITIONS.

[Section 1004 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting the following new subsection after subsection (c) and by redesignating subsections (d) through (j) as (e) through (k), respectively:

["(d) 'at-risk youth recreation grants' means—

["(1) rehabilitation grants,

["(2) innovation grants, or

["(3) matching grants for continuing program support for programs of demonstrated value or success in providing constructive alternatives to youth at risk for engaging in criminal behavior, including grants for operating, or coordinating recreation programs and services;

[in neighborhoods and communities with a high prevalence of crime, particularly violent crime or crime committed by youthful offenders; in addition to the purposes specified in subsection (b), rehabilitation grants referred to in paragraph (1) of this subsection may be used for the provision of lighting, emergency phones or other capital improvements which will improve the security of urban parks;".

[SEC. 31503. CRITERIA FOR SELECTION.

[Section 1005 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and" and by adding the following at the end:

[“(8) in the case of at-risk youth recreation grants, the Secretary shall give a priority to each of the following criteria:

[“(A) Programs which are targeted to youth who are at the greatest risk of becoming involved in violence and crime.

[“(B) Programs which teach important values and life skills, including teamwork, respect, leadership, and self-esteem.

[“(C) Programs which offer tutoring, remedial education, mentoring, and counseling in addition to recreation opportunities.

[“(D) Programs which offer services during late night or other nonschool hours.

[“(E) Programs which demonstrate collaboration between local park and recreation, juvenile justice, law enforcement, and youth social service agencies and nongovernmental entities, including the private sector and community and nonprofit organizations.

[“(F) Programs which leverage public or private recreation investments in the form of services, materials, or cash.

[“(G) Programs which show the greatest potential of being continued with non-Federal funds or which can serve as models for other communities.”.

[SEC. 31504. PARK AND RECREATION ACTION RECOVERY PROGRAMS.

[Section 1007(b) of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end: “In order to be eligible to receive ‘at-risk youth recreation grants’ a local government shall amend its 5-year action program to incorporate the goal of reducing crime and juvenile delinquency and to provide a description of the implementation strategies to achieve this goal. The plan shall also address how the local government is coordinating its recreation programs with crime prevention efforts and law enforcement, juvenile corrections, and youth social service agencies.”.

[SEC. 31505. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

[(a) PROGRAM SUPPORT.—Section 1013 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting “(a) IN GENERAL.—” after “1013” and by adding the following new subsection at the end:

[“(b) PROGRAM SUPPORT.—Not more than 25 percent of the amounts made available under this title to any local government may be used for program support.”.

[(b) EXTENSION.—Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking “for a period of five years” and by striking “short-term”.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle—

[(1) $2,700,000 for fiscal year 1996;
[(2) $450,000 for fiscal year 1997;
[(3) $450,000 for fiscal year 1998;
[(4) $450,000 for fiscal year 1999; and
[(5) $450,000 for fiscal year 2000.

[Subtitle Q—Community-Based Justice Grants for Prosecutors

[SEC. 31701. GRANT AUTHORIZATION.

[(a) IN GENERAL.—The Attorney General may make grants to State, Indian tribal, or local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs.

[(b) CONSULTATION.—The Attorney General may consult with the Ounce of Prevention Council in making grants under subsection (a).

[SEC. 31702. USE OF FUNDS.

[Grants made by the Attorney General under this section shall be used—

[(1) to fund programs that require the cooperation and coordination of prosecutors, school officials, police, probation officers, youth and social service professionals, and community members in the effort to reduce the incidence of, and increase the successful identification and speed of prosecution of, young violent offenders;

[(2) to fund programs in which prosecutors focus on the offender, not simply the specific offense, and impose individualized sanctions, designed to deter that offender from further antisocial conduct, and impose increasingly serious sanctions on a young offender who continues to commit offenses;

[(3) to fund programs that coordinate criminal justice resources with educational, social service, and community resources to develop and deliver violence prevention programs, including mediation and other conflict resolution methods, treatment, counseling, educational, and recreational programs that create alternatives to criminal activity; and

[(4) in rural States (as defined in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)), to fund cooperative efforts between State and local prosecutors, victim advocacy and assistance groups, social and community service providers, and law enforcement agencies to investigate and prosecute child abuse cases, treat youthful victims of child abuse, and work in cooperation with the community to develop education and prevention strategies directed toward the issues with which such entities are concerned.

[SEC. 31703. APPLICATIONS.

[(a) ELIGIBILITY.—In order to be eligible to receive a grant under this part for any fiscal year, a State, Indian tribal, or local prosecutor, in conjunction with the chief executive officer of the jurisdiction in which the program will be placed, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

[(b) REQUIREMENTS.—Each applicant shall include—

[(1) a request for funds for the purposes described in section 31702;

[(2) a description of the communities to be served by the grant, including the nature of the youth crime, youth violence, and child abuse problems within such communities;

[(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section; and

[(4) statistical information in such form and containing such information that the Attorney General may require.

[(c) COMPREHENSIVE PLAN.—Each applicant shall include a comprehensive plan that shall contain—

[(1) a description of the youth violence or child abuse crime problem;

[(2) an action plan outlining how the applicant will achieve the purposes as described in section 31702;

[(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources; and

[(4) a description of how the requested grant will be used to fill gaps.

[SEC. 31704. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

[(a) ADMINISTRATIVE COST LIMITATION.—The Attorney General shall use not more than 5 percent of the funds available under this program for the purposes of administration and technical assistance.

[(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

[(1) the Attorney General determines that the funds made available to the recipient during the previous years were used in a manner required under the approved application; and

[(2) the Attorney General determines that an additional grant is necessary to implement the community prosecution program described in the comprehensive plan required by section 31703.

[SEC. 31705. AWARD OF GRANTS.

[The Attorney General shall consider the following facts in awarding grants:

[(1) Demonstrated need and evidence of the ability to provide the services described in the plan required under section 31703.

[(2) The Attorney General shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

[SEC. 31706. REPORTS.

[(a) REPORT TO ATTORNEY GENERAL.—State and local prosecutors that receive funds under this subtitle shall submit to the Attorney General a report not later than March 1 of each year that describes progress achieved in carrying out the plan described under section 31703(c).

[(b) REPORT TO CONGRESS.—The Attorney General shall submit to the Congress a report by October 1 of each year in which grants are made available under this subtitle which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established under this subtitle.

[SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated to carry out this subtitle—

[(1) $7,000,000 for fiscal year 1996;
[(2) $10,000,000 for fiscal year 1997;
[(3) $10,000,000 for fiscal year 1998;
[(4) $11,000,000 for fiscal year 1999; and
[(5) $12,000,000 for fiscal year 2000.

[SEC. 31708. DEFINITIONS.

[In this subtitle—

["Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

["State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

["young violent offenders" means individuals, ages 7 through 22, who have committed crimes of violence, weapons offenses, drug distribution, hate crimes and civil rights violations, and offenses against personal property of another.

[Subtitle S—Family Unity Demonstration Project

[SEC. 31901. SHORT TITLE.

[This subtitle may be cited as the "Family Unity Demonstration Project Act".

[SEC. 31902. PURPOSE.

[The purpose of this subtitle is to evaluate the effectiveness of certain demonstration projects in helping to—

[(1) alleviate the harm to children and primary caretaker parents caused by separation due to the incarceration of the parents;

[(2) reduce recidivism rates of prisoners by encouraging strong and supportive family relationships; and

[(3) explore the cost effectiveness of community correctional facilities.

[SEC. 31903. DEFINITIONS.

[In this subtitle—

["child" means a person who is less than 7 years of age.

["community correctional facility" means a residential facility that—

[(A) is used only for eligible offenders and their children under 7 years of age;

[(B) is not within the confines of a jail or prison;

[(C) houses no more than 50 prisoners in addition to their children; and

[(D) provides to inmates and their children—

[(i) a safe, stable, environment for children;

[(ii) pediatric and adult medical care consistent with medical standards for correctional facilities;

[(iii) programs to improve the stability of the parent-child relationship, including educating parents regarding—

[(I) child development; and

[(II) household management;

[(iv) alcoholism and drug addiction treatment for prisoners; and

[(v) programs and support services to help inmates—

[(I) to improve and maintain mental and physical health, including access to counseling;

[(II) to obtain adequate housing upon release from State incarceration;

[(III) to obtain suitable education, employment, or training for employment; and

[(IV) to obtain suitable child care.

["eligible offender" means a primary caretaker parent who—

[(A) has been sentenced to a term of imprisonment of not more than 7 years or is awaiting sentencing for a conviction punishable by such a term of imprisonment; and

[(B) has not engaged in conduct that—

[(i) knowingly resulted in death or serious bodily injury;

[(ii) is a felony for a crime of violence against a person; or

[(iii) constitutes child neglect or mental, physical, or sexual abuse of a child.

["primary caretaker parent" means—

[(A) a parent who has consistently assumed responsibility for the housing, health, and safety of a child prior to incarceration; or

[(B) a woman who has given birth to a child after or while awaiting her sentencing hearing and who expresses a willingness to assume responsibility for the housing, health, and safety of that child,

[a parent who, in the best interest of a child, has arranged for the temporary care of the child in the home of a relative or other responsible adult shall not for that reason be excluded from the category "primary caretaker".

["State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

[SEC. 31904. AUTHORIZATION OF APPROPRIATIONS.

[(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

[(1) $3,600,000 for fiscal year 1996;
[(2) $3,600,000 for fiscal year 1997;
[(3) $3,600,000 for fiscal year 1998;
[(4) $3,600,000 for fiscal year 1999; and
[(5) $5,400,000 for fiscal year 2000.

[(b) AVAILABILITY OF APPROPRIATIONS.—Of the amount appropriated under subsection (a) for any fiscal year—

[(1) 90 percent shall be available to carry out chapter 1; and
[(2) 10 percent shall be available to carry out chapter 2.

[CHAPTER 1—GRANTS TO STATES

[SEC. 31911. AUTHORITY TO MAKE GRANTS.

[(a) GENERAL AUTHORITY.—The Attorney General may make grants, on a competitive basis, to States to carry out in accordance with this subtitle family unity demonstration projects that enable eligible offenders to live in community correctional facilities with their children.

[(b) PREFERENCES.—For the purpose of making grants under subsection (a), the Attorney General shall give preference to a State that includes in the application required by section 31912 assurances that if the State receives a grant—

[(1) both the State corrections agency and the State health and human services agency will participate substantially in, and cooperate closely in all aspects of, the development and operation of the family unity demonstration project for which such a grant is requested;

[(2) boards made up of community members, including residents, local businesses, corrections officials, former prisoners, child development professionals, educators, and maternal and child health professionals will be established to advise the State regarding the operation of such project;

[(3) the State has in effect a policy that provides for the placement of all prisoners, whenever possible, in correctional facilities for which they qualify that are located closest to their respective family homes;

[(4) unless the Attorney General determines that a longer timeline is appropriate in a particular case, the State will implement the project not later than 180 days after receiving a grant under subsection (a) and will expend all of the grant during a 1-year period;

[(5) the State has the capacity to continue implementing a community correctional facility beyond the funding period to ensure the continuity of the work;

[(6) unless the Attorney General determines that a different process for selecting participants in a project is desirable, the State will—

[(A) give written notice to a prisoner, not later than 30 days after the State first receives a grant under subsection (a) or 30 days after the prisoner is sentenced to a term of imprisonment of not more than 7 years (whichever is later), of the proposed or current operation of the project;

[(B) accept at any time at which the project is in operation an application by a prisoner to participate in the project if, at the time of application, the remainder of the prisoner's sentence exceeds 180 days;

[(C) review applications by prisoners in the sequence in which the State receives such applications; and

[(D) not more than 50 days after reviewing such applications approve or disapprove the application; and

[(7) for the purposes of selecting eligible offenders to participate in such project, the State has authorized State courts to sentence an eligible offender directly to a community correctional facility, provided that the court gives assurances that the offender would have otherwise served a term of imprisonment.

[(c) SELECTION OF GRANTEES.—The Attorney General shall make grants under subsection (a) on a competitive basis, based on such criteria as the Attorney General shall issue by rule and taking into account the preferences described in subsection (b).

[SEC. 31912. ELIGIBILITY TO RECEIVE GRANTS.

[To be eligible to receive a grant under section 31911, a State shall submit to the Attorney General an application at such time, in such form, and containing such information as the Attorney General reasonably may require by rule.

[SEC. 31913. REPORT.

[(a) IN GENERAL.—A State that receives a grant under this title shall, not later than 90 days after the 1-year period in which the grant is required to be expended, submit a report to the Attorney General regarding the family unity demonstration project for which the grant was expended.

[(b) CONTENTS.—A report under subsection (a) shall—

[(1) state the number of prisoners who submitted applications to participate in the project and the number of prisoners who were placed in community correctional facilities;

[(2) state, with respect to prisoners placed in the project, the number of prisoners who are returned to that jurisdiction and custody and the reasons for such return;

[(3) describe the nature and scope of educational and training activities provided to prisoners participating in the project;

[(4) state the number, and describe the scope of, contracts made with public and nonprofit private community-based organizations to carry out such project; and

[(5) evaluate the effectiveness of the project in accomplishing the purposes described in section 31902.

[CHAPTER 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS

[SEC. 31921. AUTHORITY OF THE ATTORNEY GENERAL.

[(a) IN GENERAL.—With the funds available to carry out this subtitle for the benefit of Federal prisoners, the Attorney General, acting through the Director of the Bureau of Prisons, shall select eligible prisoners to live in community correctional facilities with their children.

[(b) GENERAL CONTRACTING AUTHORITY.—In implementing this title, the Attorney General may enter into contracts with appropriate public or private agencies to provide housing, sustenance, services, and supervision of inmates eligible for placement in community correctional facilities under this title.

[(c) USE OF STATE FACILITIES.—At the discretion of the Attorney General, Federal participants may be placed in State projects as defined in chapter 1. For such participants, the Attorney General shall, with funds available under section 31904(b)(2), reimburse the State for all project costs related to the Federal participant's placement, including administrative costs.

[SEC. 31922. REQUIREMENTS.

[For the purpose of placing Federal participants in a family unity demonstration project under section 31921, the Attorney General shall consult with the Secretary of Health and Human Services regarding the development and operation of the project.]

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Subtitle X—Gang Resistance Education and Training

SEC. 32401. GANG RESISTANCE EDUCATION AND TRAINING PROJECTS.

(a) ESTABLISHMENT OF PROJECTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish not less than 50 Gang Resistance Education and Training (GREAT) projects, to be located in communities across the country, in addition to the number of projects currently funded.

[(2) SELECTION OF COMMUNITIES.—Communities identified for such GREAT projects shall be selected by the Secretary of the Treasury on the basis of gang-related activity in that particular community.]

(2) SELECTION OF COMMUNITIES.—

(A) IN GENERAL.—Each community identified for a GREAT project referred to in paragraph (1) shall be selected by the Secretary of the Treasury on the basis of—

(i) the level of gang activity and youth violence in the area in which the community is located;

(ii) the number of schools in the community in which training would be provided under the project;

(iii) the number of students who would receive the training referred to in clause (ii) in schools referred to in that clause; and

(iv) a written description from officials of the community explaining the manner in which funds made available to the community under this section would be allocated.

(B) EQUITABLE SELECTION.—The Secretary of the Treasury shall ensure that—

(i) communities are identified and selected for GREAT projects under this subsection on an equitable geographic basis (except that this clause shall not be

construed to require the termination of any projects selected prior to the beginning of fiscal year 1998); and

(ii) the communities referred to in clause (i) include rural communities.

(3) AMOUNT OF ASSISTANCE PER PROJECT; ALLOCATION.—The Secretary of the Treasury shall make available not less than $800,000 per project, subject to the availability of appropriations, and such funds shall be allocated—

(A) [50 percent] *85 percent* to the affected State and local law enforcement and prevention organizations participating in such projects; and

(B) [50 percent] *15 percent* to the Bureau of Alcohol, Tobacco and Firearms for salaries, expenses, and associated administrative costs for operating and overseeing such projects.

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TITLE XXVI—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON CRIME PREVENTION AND CONTROL REPEALED]

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TITLE XXXI—VIOLENT CRIME REDUCTION TRUST FUND

SEC. 310001. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

(a) * * *

(b) TRANSFERS INTO THE FUND.—On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1995), the following amounts shall be transferred from the general fund to the Fund—

(1) for fiscal year 1995, $2,423,000,000;
(2) for fiscal year 1996, $4,287,000,000;
(3) for fiscal year 1997, $5,000,000,000;
(4) for fiscal year 1998, $5,500,000,000;
(5) for fiscal year 1999, $6,500,000,000; [and]
(6) for fiscal year 2000, $6,500,000,000;
(7) for fiscal year 2001, $750,000,000; and
(8) for fiscal year 2002, $750,000,000.

* * * * * * *

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

(As amended through Public Law 103–282—Oct. 20, 1994)

TITLE XIV—GENERAL PROVISIONS

* * * * * * *

"PART F—GUN POSSESSION

["SEC. 14601. GUN-FREE REQUIREMENTS.

["(a) SHORT TITLE.—This section may be cited as the 'Gun-Free Schools Act of 1994'.

["(b) REQUIREMENTS.—

["(1) IN GENERAL.—Except as provided in paragraph (3), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

["(2) CONSTRUCTION.—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

["(3) SPECIAL RULE.—(A) Any State that has a law in effect prior to the date of enactment of the Improving America's Schools Act of 1994 which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

["(B) The period of time shall be the period beginning on the date of enactment of the Improving America's Schools Act and ending one year after such date.

["(4) DEFINITION.—For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.

["(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

["(d) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

["(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

[“(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

[“(A) the name of the school concerned;

[“(B) the number of students expelled from such school; and

[“(C) the type of weapons concerned.

[“(e) REPORTING.—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.

[“(f) REPORT TO CONGRESS.—Two years after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this title.

[“SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

[“(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

[“(b) DEFINITIONS.—For the purpose of this section, the terms ‘firearm’ and ‘school’ have the same meaning given to such terms by section 921(a) of title 18, United States Code.

[“SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.

[“The Secretary shall—

[“(1) widely disseminate the policy of the Department in effect on the date of enactment of the Improving America's Schools Act of 1994 with respect to disciplining children with disabilities;

[“(2) collect data on the incidence of children with disabilities (as such term is defined in section 602(a)(1) of the Individuals With Disabilities Education Act) engaging in life threatening behavior or bringing weapons to schools; and

[“(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.]

PART F—ILLEGAL DRUG AND GUN POSSESSION AND POSSESSION OF TOBACCO PRODUCTS OR ALCOHOLIC BEVERAGES

SEC. 14601. DRUG-FREE, GUN-FREE, TOBACCO-FREE, AND ALCOHOL-FREE REQUIREMENTS.

(a) SHORT TITLE.—This section may be cited as the ‘Safe Schools Act of 1997’.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school—

(A) for a period of not less than 1 year a student who is determined—

(i) to be in possession of an illegal drug (in a quantity that indicates an intent to distribute as determined by State law), or illegal drug paraphernalia, on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency in that State, or

(ii) to have brought a **[***weapon***]** *dangerous weapon to a school under the jurisdiction of a local educational agency in that State;*

(B) for a period of not more than 6 months and not less than 1 week a student who is determined to be in possession of an illegal drug (in a quantity that does not indicate an intent to distribute as determined by State law), on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency in that State; and

(C) for a period of not more than 6 months a student who is determined to have, while not having attained the age of 18 and on a regular basis (as determined by the State), used or possessed 1 or more tobacco products or alcoholic beverages on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency in that State.

(2) EXCEPTIONS.—The State law described in paragraph (1)—

(A) shall not apply to students served under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

(B) shall allow the chief administering officer of a local educational agency to modify the expulsion requirement for a student on a case-by-case basis or to ensure that the requirement takes into account applicable State law.

(3) CONSTRUCTION.—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

[*(4) DEFINITION OF WEAPON.—In this section, the term "weapon" has the meaning given the term "firearm" in section 921(a) of title 18, United States Code.***]**

(c) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

(A) the name of the school concerned;

(B) the number of students expelled from such school; and

(C) the type of illegal drugs, illegal drug paraphernalia, **[***weapons***]** *dangerous weapons, tobacco products, or alcoholic beverages concerned.*

(d) Reporting.—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.

(e) Report to Congress.—Two years after the date of enactment of the Safe Schools Act of 1997, the Secretary shall report to Congress with respect to any State that is not in compliance with the requirements of this part.

SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

(a) In General.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who is in possession of an illegal drug, or illegal drug paraphernalia, on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, such agency, or who brings a **[***firearm or weapon***]** *to a school served by such agency.*

[*(b) Definitions.—In this section, the terms "firearm" and "school" have the meanings given those terms in section 921(a) of title 18, United States Code.***]**

(b) Definition of School.—In this section, the term "school" has the meaning given that term in section 921(a) of title 18, United States Code.

SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.

The Secretary shall—

(1) widely disseminate the policy of the Department in effect on the date of enactment of the Safe Schools Act of 1997 with respect to disciplining children with disabilities;

(2) collect data on the incidence of children with disabilities (as that term is defined in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1))) possessing illegal drugs or illegal drug paraphernalia, or using or possessing, on a regular basis (as determined by the appropriate State), tobacco products, or alcoholic beverages on school property under the jurisdiction of, or on a vehicle operated by an employee or agent of, a local educational agency, engaging in life threatening behavior at school, or bringing weapons to schools; and

(3) submit a report to Congress not later than 1 year after the date of enactment of the Safe Schools Act of 1997 analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

SEC. 14604. DEFINITIONS.

In this part:

(1) Alcoholic beverage.—The term "alcoholic beverage" includes any beverage in liquid form that contains not less than ½ of 1 percent of alcohol by volume and is intended for human consumption.

(2) Illegal drug.—

(A) In general.—The term "illegal drug" means a controlled substance (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), the possession of which is unlawful under such Act (21 U.S.C.

801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(B) EXCLUSION.—The term "illegal drug" does not mean a controlled substance used pursuant to a valid prescription or as authorized by law.

(3) ILLEGAL DRUG PARAPHERNALIA.—The term "illegal drug paraphernalia" means drug paraphernalia (as that term is defined in section 422 of the Controlled Substances Act (21 U.S.C. 863)), except that the first sentence of section 422(d) of such Act shall be applied by inserting "or under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)" before the period.

(4) TOBACCO PRODUCT.—The term 'tobacco product' means—

(A) cigarettes and little cigars (as those terms are defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332));

(B) cigars (as that term is defined in section 5702 of the Internal Revenue Code of 1986);

(C) pipe tobacco and loose rolling tobacco;

(D) smokeless tobacco (as that term is defined in section 9 of the Comprehensive Smokeless Tobacco and Health Education Act of 1986 (15 U.S.C. 4408)); and

(E) any other form of tobacco intended for human consumption.

(5) DANGEROUS WEAPON.—The term "dangerous weapon" has the meaning given that term in section 930 of title 18, United States Code, provided such term as used in this part does not include any dangerous weapon possessed as a part of a course or curriculum approved pursuant to State or local laws.

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IMMIGRATION AND NATIONALITY ACT

(As amended through Public Law 104–8, May 1, 1995)

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CHAPTER 5—DEPORTATION; ADJUSTMENT OF STATUS

GENERAL CLASSES OF DEPORTABLE ALIENS

SEC. 241. [8 U.S.C. 1251] (a) CLASSES OF DEPORTABLE ALIENS.—Any alien (including an alien crewman) in the United States shall, upon the order of the Attorney General, be deported if the alien is within one or more of the following classes of deportable aliens;

* * * * * * *

(i) INCARCERATION.—

(1) If the chief executive officer of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the incarceration of an undocumented criminal alien submits a written request to the Attorney General, the Attorney General shall, as determined by the Attorney General—

* * * * * * *

(3) For purposes of this subsection, the term "undocumented criminal alien" means an alien who—

(A) has been convicted of a felony or two or more misdemeanors; and

(B)(i) entered the United States without inspection or at any time or place other than as designated by the Attorney General;

(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State or a political subdivision of the State; [or]

(iii) was admitted as a nonimmigrant and at the time he or she was taken into custody by the State or a political subdivision of the State has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 1258 of this title, or to comply with the conditions of any such status[.]*; or*

(iv) is a juvenile alien with respect to whom section 501 of the Immigration Reform and Control Act of 1986 applies.

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ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

(Public Law 104–132—Apr. 24, 1996)

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TITLE II—JUSTICE FOR VICTIMS

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Subtitle C—Assistance to Victims of Terrorism

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Justice for Victims of Terrorism Act of 1996".

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SEC. 233. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(3)) is amended—

* * * * * * *

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect [1 year after the debate of enactment of this Act] *on October 1, 1999*.

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ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

(Public Law 104–208—Sept. 30, 1996)

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TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

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Subtitle B—Criminal Alien Provisions

* * * * * * *

SEC. 332. ANNUAL REPORT ON CRIMINAL ALIENS.

Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) * * *

* * * * * * *

(3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to removal; **[**and**]**

(4) methods for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States**[**.**]***; and*

(5) the number of illegal juvenile aliens that are committed to State or local juvenile correctional facilities, including the type of offense committed by each juvenile.

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ECONOMIC ESPIONAGE ACT OF 1996

(Public Law 104–294)

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TITLE IV—ESTABLISHMENT OF BOYS AND GIRLS CLUBS

SEC. 401. ESTABLISHING BOYS AND GIRLS CLUBS.

(a) Findings and Purpose.—

(1) FINDINGS.—The Congress finds that—

* * * * * * *

[(2) PURPOSE.—It is the purpose of this section to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local Boys and Girls Clubs in public housing projects and other distressed areas by 2001.]

(2) PURPOSE.—The purpose of this section is to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to—

(A) establish 1,000 additional local clubs in locations where local clubs are needed (giving particular emphasis on establishing clubs in public housing projects and distressed areas); and

(B) ensure that a total of not less than 2,500 Boys and Girls Clubs of America facilities are in operation not later than December 31, 1999.

* * * * * * *

[(c) ESTABLISHMENT.—

[(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall provide a grant to the Boys and Girls Clubs of America for the purpose of establishing Boys and Girls Clubs in public housing projects and other distressed areas.

[(2) CONTRACTING AUTHORITY.—Where appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America to establish clubs pursuant to the grants under paragraph (1).]

(c) ESTABLISHMENT.—

(1) IN GENERAL.—

(A) AUTHORITY.—For each of fiscal years 1997, 1998, 1999, 2000, and 2001, the Attorney General, acting through the Director of the Bureau of Justice Assistance of the Department of Justice (referred to in this subsection as the "Director") shall make a grant to the Boys and Girls Clubs of America for the purpose of establishing and extending Boys and Girls Clubs facilities in locations where new facilities or expanded facilities are needed.

(B) EMPHASIS.—In carrying out subparagraph (A), the Director shall give particular emphasis to establishing clubs in and extending services to public housing projects and distressed areas.

(2) APPLICATIONS.—

(A) IN GENERAL.—The Attorney General, acting through the Director, shall accept an application for a grant under this subsection submitted by the Boys and Girls Clubs of America.

(B) APPROVAL.—Not later than 90 days after an application is submitted under subparagraph (A), the Attorney General, acting through the Director, shall approve or deny

the application. The Attorney General may approve the application only if the application—

(i) includes—

(I) a long-term strategy to establish 1,000 additional Boys and Girls Clubs; and

(II) a detailed summary of those geographic areas in which new facilities will be established, or in which existing facilities will be expanded to serve additional youths, during the fiscal year following the date of the application;

(ii) includes a plan to ensure that a total of not less than 2,500 Boys and Girls Clubs of America facilities are in operation before January 1, 2000;

(iii) certifies that the Boys and Girls Clubs of America will ensure appropriate coordination between the communities in which the Boys and Girls Clubs referred to in clause (ii) and the Boys and Girls Clubs of America will be located; and

(iv) explains the manner in which new facilities will operate without the provision of additional, direct Federal financial assistance to the Boys and Girls Clubs after assistance under this subsection is discontinued.

* * * * * * *

(f) ROLE MODEL GRANTS.—Of amounts made available under subsection (e) for any fiscal year—

(1) not more than 5 percent may be used to provide a grant to the Boys and Girls Clubs of America for administrative, travel, and other costs associated with a national role-model speaking tour program; and

(2) no amount may be used to compensate speakers other than to reimburse speakers for reasonable travel and accommodation costs associated with the program described in paragraph (1).

(g) FLAGSHIP BOYS AND GIRLS CLUBS.—

(1) IN GENERAL.—The Attorney General, acting through the Director of the Bureau of Justice Assistance (referred to in this section as the "Director"), shall, upon receipt of an application that meets the requirements of paragraph (2) from an appropriate official of the Boys and Girls Clubs of America, make a grant to the Boys and Girls Clubs of America to fund the establishment of not less than 3 flagship Boys and Girls Clubs.

(2) APPLICATION.—

(A) IN GENERAL.—In order to receive a grant under this subsection, the appropriate official of the Boys and Girls Clubs of America shall submit an application to the Director in such form, and containing such information, as the Director may reasonably require.

(B) CONTENTS OF APPLICATION.—The application submitted pursuant to subparagraph (A) shall contain assurances that—

(i)(I) the flagship clubs established under this subsection (referred to in this subsection as the "flagship clubs") shall be located in economically distressed areas; and

(II) with respect to the location of the flagship clubs, at least—

(aa) 1 shall be in a rural area; and

(bb) 1 shall be in an urban area;

(ii) site selection for the flagship clubs shall be made on an equitable geographic basis;

(iii) funds received pursuant to this subsection by the Boys and Girls Clubs of America shall comprise not more than 60 percent of the costs of establishing the flagship clubs; and

(iv) specify how the flagship clubs will operate without Federal funds after the flagship clubs are brought into operation.

(3) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated $15,000,000 for fiscal year 1998 to carry out this subsection.

(B) SOURCE OF SUMS.—Sums authorized to be appropriated under subparagraph (A) may be derived from the Violent Crime Reduction Trust Fund.

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